



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Donne E. Trotter

SYNOPSIS AS INTRODUCED:

New Act

Creates the Patient Safety Act. Requires hospitals to implement a written staffing plan for nursing services, and sets forth requirements for the plan. Requires a hospital to establish a committee to develop and monitor implementation of the plan. Restricts a hospital's authority to require nurses to work overtime, making exceptions for emergencies. Provides for civil penalties for violations of the Act. Effective immediately.

LRB093 16080 DRJ 45102 b

1 AN ACT concerning health facilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Patient Safety Act.

6 Section 5. Findings. The legislature finds and declares all
7 of the following:

8 (1) Health care services are becoming complex and it is
9 increasingly difficult for patients to access integrated
10 services.

11 (2) Quality of patient care could be impacted by
12 staffing changes implemented in response to managed care.

13 (3) To ensure the adequate protection of patients in
14 acute care settings, it is essential that qualified
15 registered nurses be accessible and available to meet the
16 needs of patients.

17 (4) The basic principles of staffing in the acute care
18 setting should be based on the patient's care needs, the
19 severity of the condition, prevailing national standards
20 of nursing care, services needed, and the complexity
21 surrounding those services, as well as the experience
22 level, clinical competencies, and education of the
23 licensed nurses providing patient care services.

24 Section 10. Definitions. In this Act:

25 "Hospital" means an entity licensed under the Hospital
26 Licensing Act or a University of Illinois hospital as defined
27 in the University of Illinois Hospital Act.

28 "Nurse" means a person licensed as a licensed practical
29 nurse or registered professional nurse under the Nursing and
30 Advanced Practice Nursing Act.

31 "Overtime" means work in excess of an agreed-to,

1 predetermined scheduled work shift not to exceed 12 hours, or
2 work in excess of 40 hours in one work week, except in the case
3 of an unforeseen emergent circumstance when overtime is used
4 only as a last resort.

5 "Patient classification system" means a mechanism used by a
6 health care facility to determine and differentiate health care
7 needs of all patients receiving care within the facility.

8 "Unforeseen emergent circumstance" means a circumstance in
9 which the employer has no foreseeable control, as in the
10 instance of war, a national disaster, or a declared state of
11 emergency. The term does not mean a situation in which the
12 employer has reasonable knowledge of a decreased facility
13 staffing plan, for reasons including, but not limited to,
14 scheduled vacations, employee illness, or increased patient
15 census.

16 "Workplace design to prevent and mitigate errors" means a
17 nursing work environment and care process to reduce errors and
18 enhance patient safety.

19 "Written staffing plan for nursing services" means a
20 written plan of direct care personnel staffing requirements
21 that are appropriate to ensure that all patients receive
22 quality health care based on the patient classification system
23 under normal and emergent circumstances.

24 Section 15. Written staffing plan for nursing services.

25 (a) Every hospital is responsible for the development and
26 implementation of a hospital-wide written staffing plan for
27 nursing services. The hospital shall appoint a patient
28 classification committee as provided in Section 20 to develop
29 and implement its written staffing plan for nursing services by
30 creating a patient classification system. The staffing plan
31 shall be an integral part of the overall hospital
32 organizational plan and shall be available to all nursing
33 personnel. The staffing plan shall be developed in a manner
34 that enables the patient care unit to meet or exceed the nurse
35 staffing requirements that are derived from the computation

1 used in the patient classification system. The staffing plan
2 developed for each patient care unit for each work shift must
3 be consistent with acceptable and prevailing standards of safe
4 nursing care and with the American Nurses Association's
5 Principles for Nurse Staffing. After developing the staffing
6 plan, the committee shall monitor the implementation of the
7 plan, with no less than an annual evaluation and requisite
8 modification.

9 (b) The staffing plan must be developed for each patient
10 care unit for each work shift and must be consistent with
11 acceptable and prevailing standards of safe nursing care and
12 with the American Nurses Association's Principles for Nurse
13 Staffing. The staffing plan must take into account, but need
14 not be limited to, all of the following:

15 (1) The plan must be based on the nursing care required
16 by the aggregate and individual needs of patients in each
17 nursing unit. This nursing care shall be the major
18 consideration in determining the number and categories of
19 nursing staff needed.

20 (2) The plan must establish minimum numbers of nursing
21 staff, including licensed nurses and nursing assistants,
22 on specified shifts. The number of nursing staff on duty
23 shall be sufficient (as determined by the committee
24 established under Section 20) to ensure that the nursing
25 care needs of each patient are met

26 (3) The plan must be based on the specialized
27 qualifications and competencies of the nursing staff. The
28 skill mix and the competency of the staff shall ensure that
29 the nursing care needs of the patients are met and shall
30 ensure patient safety.

31 (4) The plan must be consistent with the scopes of
32 practice for registered professional nurses and licensed
33 practical nurses and with the authorized duties of nursing
34 assistants as delegated by the registered professional
35 nursing staff.

36 (5) The plan must provide that registered professional

1 nurses must be present whenever patient care is delivered.

2 (6) The plan must require that the hospital
3 administration make provisions for replacement staff in
4 the event of sickness, vacations, vacancies, breaks, and
5 other absences of nursing staff, with the exception of
6 unforeseen emergent circumstances, and that provides a
7 sufficient number of replacement staff (as determined by
8 the committee established under Section 20) for the
9 hospital on a regular basis.

10 (c) The patient classification committee established under
11 Section 20 shall develop an internal review mechanism for use
12 in evaluating whether the hospital's staffing plan results in
13 sufficient staffing requirements to meet the health care needs
14 of the hospital's patients. The committee shall develop a
15 review mechanism that takes into account changes in the
16 characteristics of the hospital or the environment, as well as
17 changes that may have occurred in the overall acuity level of
18 the patients being treated in the hospital. Evaluation tools
19 that may be used in the review mechanism shall include, but
20 need not be limited to, the following:

21 (1) Patient outcome indicators that have been shown to
22 correlate with nurse staffing, as those indicators are
23 developed by nationally recognized nursing organizations.

24 (2) Acceptable and prevailing standards of safe
25 nursing care.

26 (3) Hospital reports and analysis of incidents and
27 injuries to patients, nursing staff, and other nursing
28 personnel.

29 (4) Available reports and surveys of patient
30 satisfaction and nurse satisfaction that correlate to the
31 quality of nursing care provided in the hospital.

32 (5) Criteria required by State or federal law for
33 assessing the quality of patient care provided by a
34 hospital.

35 (6) American Nurse Credentialing Center Magnet
36 Hospital elements and American Nurses Association

1 Principles for Nurse Staffing.

2 (7) Any other criteria the committee considers
3 appropriate.

4 (d) Not later than 6 months after the effective date of
5 this Act, the committee shall complete its development of the
6 internal review mechanism and conduct an internal review of the
7 staffing plan it has selected. Thereafter, the committee shall
8 conduct an internal review of the plan at least once each year
9 and shall report to the hospital leaders on the data analysis
10 regarding staffing effectiveness and any actions taken to
11 improve staffing.

12 (e) Whenever the committee determines that the staffing
13 plan that the committee has selected for the hospital no longer
14 meets the staffing requirements necessary to meet the health
15 care needs of the hospital's patients, the committee shall
16 select a different written staffing plan pursuant to this
17 Section.

18 (f) Staff nurses shall collect unit-level-specific data
19 for analysis of the patient classification committee on a
20 routine basis.

21 (g) The hospital shall provide training to support all
22 staff nurses in their roles in analyzing data and to provide
23 training on data elements and their relevance to staffing to
24 best support the development and ongoing review of the written
25 staffing plan.

26 (h) A hospital's staffing plan is subject to inspection by
27 the Department of Public Health.

28 Section 20. Patient classification committee. Every
29 hospital shall establish a patient classification committee
30 for the purpose of selecting the patient classification system
31 to be used in establishing staffing requirements pursuant to
32 Section 15. A hospital shall appoint members of the committee
33 in accordance with the following:

34 (1) At least 50% of the members of the committee shall
35 be comprised of registered professional nurses who are

1 staff nurses providing direct patient care.

2 (2) If the hospital has entered into a collective
3 bargaining agreement with its nursing staff, the
4 leadership of the collective bargaining unit shall appoint
5 their own committee members.

6 Section 25. Patient classification system. The patient
7 classification committee of a hospital shall select a patient
8 classification system that does all of the following:

9 (1) Computes staffing requirements that are
10 appropriate to ensure that all patients in the hospital
11 receive quality health care according to an analysis of
12 their individual and aggregate needs.

13 (2) Specifies staffing requirements to be filled by
14 licensed nurses and other personnel utilized in the
15 provision of direct patient care or the support of other
16 unit activities.

17 (3) Includes methods to ensure the validity and
18 reliability of its projection of staffing requirements.

19 (4) Incorporates standards that are consistent with
20 acceptable and prevailing standards of safe nursing care
21 and with the American Nurses Association's Principles for
22 Nurse Staffing.

23 Section 30. Workplace design to prevent and mitigate
24 errors.

25 (a) To reduce error-producing fatigue, a hospital may not
26 require nursing staff to provide patient care in any
27 combination of scheduled shifts, mandatory overtime in excess
28 of 12 hours in any 24-hour period, and mandatory overtime in
29 excess of 60 hours in any 7-day period.

30 (b) The hospital administration is responsible for
31 implementing the staffing plan for nursing developed under
32 Section 15 to obtain registered professional nurses for the
33 unfilled hours or shifts.

34 (c) A hospital may not require a nurse to work:

1 (1) more than 12 hours in any 24-hour period; or

2 (2) more than 60 hours in any 7-day period.

3 (d) A hospital must dedicate budgetary resources equal to
4 a defined percentage of nursing payroll to support nursing
5 staff in their ongoing acquisition and maintenance of knowledge
6 and skills. These resources should be sufficient for and used
7 to implement policies and practices that:

8 (1) assign experienced nursing staff to precept nurses
9 newly practicing in a clinical area to address knowledge
10 and skill gaps; and

11 (2) provide education and training of staff as new
12 technology or changes in the workplace are introduced.

13 Section 35. Compliance with staffing requirements.

14 (a) A hospital must do all of the following:

15 (1) The hospital must comply with the staffing
16 requirements established under subsection (b) of Section
17 15.

18 (2) The hospital must comply with the working
19 scheduling limitations by employing a sufficient number of
20 employees to perform duties that are non-nursing such as
21 housekeeping, clerical duties, and administrative duties.

22 (3) The hospital may not require an employee to accept
23 overtime work except in the case of an unforeseen emergent
24 circumstance when overtime is required only as a last
25 resort. The acceptance by any employee of overtime work
26 must be strictly voluntary, and the refusal to accept such
27 overtime work may not be grounds for discrimination,
28 dismissal, discharge, or retaliation, or any other
29 employment decision adverse to the employee.

30 (b) If subdivisions (1) and (2) of subsection (a) are both
31 violated in the same work shift, each violation is a separate
32 violation for purposes of Section 40. If subdivisions (1) and
33 (2) of subsection (a) are violated in different patient care
34 units at the same time, each violation is a separate violation
35 for purposes of Section 40.

1 (c) The provisions of this Section do not apply to nursing
2 staff needs in the event of a national or State emergency or
3 circumstances requiring the implementation of a hospital
4 disaster plan.

5 Section 40. Violations; penalties.

6 (a) If the Department of Public Health determines, after an
7 investigation, that a hospital has violated subdivision (1) or
8 (2) of subsection (a) of Section 35, the Department shall
9 impose a civil penalty against the hospital in accordance with
10 subsection (b) of this Section. In determining the amount of
11 the civil penalty to be imposed, the Department shall consider
12 the severity of this violation, the hospital's efforts to
13 correct the violation, whether the violation has been
14 corrected, and whether the hospital's failure to correct the
15 violation is the result of a willful disregard of the
16 requirements of this Act.

17 (b) In the case of a first violation of subdivision (1) or
18 (2) of subsection (a) of Section 35, the Department of Public
19 Health shall impose a civil penalty in an amount that is not
20 less than \$2,000 for each week in which the violation occurs.
21 In the case of a subsequent violation, for each day of the
22 first week in which the violation occurs, the Department shall
23 impose a civil penalty in an amount that is not less than
24 \$8,000 and not more than \$15,000. During each week thereafter,
25 the Department shall impose a civil penalty for each day of the
26 violation in an amount that is 3 times the amount imposed per
27 day in the immediately preceding week.

28 (c) The Department of Public Health may impose a civil
29 penalty under this Section only after notice to the hospital
30 and an opportunity for the hospital to be heard on the matter.

31 (d) The Attorney General may bring an action in the circuit
32 court to enforce the collection of any civil penalty imposed
33 under this Section.

34 (e) Notice of a hospital's violation of this Act shall be
35 posted in a public area of the hospital's premises. Violations

1 must also be included in a hospital's quarterly reports to the
2 Department of Public Health under Section 25 of the Hospital
3 Report Card Act.

4 (f) Amounts collected under this Section shall be allocated
5 to the Department of Public Health for nursing scholarships
6 awarded pursuant to the Nursing Education Scholarship Law.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.