



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2548

Introduced 2/18/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act

Creates the Nursing Care and Quality Improvement Act. Provides that each hospital shall implement a staffing plan that (i) provides adequate, appropriate, and quality delivery of health care services, (ii) protects patient safety, and (iii) is consistent with the requirements of the Act. Sets forth the minimum direct care registered nurse-to-patient ratios required in a unit of a hospital during each shift in that unit. Sets forth development and reevaluation requirements for the staffing plan. Prohibits a hospital from discharging, discriminating, or retaliating in any manner with respect to any aspect of employment against a nurse based on the nurse's refusal of a work assignment under certain conditions or against a nurse or any individual, who, in good faith, reports a violation of the Act, initiates, cooperates, or otherwise participates in an investigation or proceeding under the Act, or informs or discusses with other individuals or with representatives of hospital employees a violation or suspected violation of the Act. Sets forth penalties for violation of the Act.

LRB094 10209 RAS 40476 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning healthcare.

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 Nursing Care and Quality Improvement Act.

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

8 (1) The State of Illinois has a substantial interest in
9 promoting quality care and improving the delivery of health
10 care services to patients in health care facilities in the
11 State.

12 (2) Recent changes in the health care delivery systems
13 that have resulted in higher acuity levels among patients
14 in health care facilities increase the need for improved
15 quality measures in order to protect patient care and
16 reduce the incidence of medical errors.

17 (3) Inadequate and poorly monitored registered nurse
18 staffing practices that result in too few registered nurses
19 providing direct care jeopardize the delivery of quality
20 health care.

21 (4) Numerous studies have shown that patient outcomes
22 are directly correlated to direct care registered nurse
23 staffing levels.

24 (5) Requirements for direct care registered nurse
25 staffing ratios will help address the registered nurse
26 shortage in Illinois by aiding in recruitment of new
27 registered nurses and improving retention of registered
28 nurses who are considering leaving direct patient care
29 because of the demands created by inadequate staffing.

30 (6) Establishing adequate minimum direct care
31 registered nurse-to-patient ratios that take into account
32 patient acuity measures will improve the delivery of

1 quality health care services and patient safety.

2 (7) Establishing safe staffing standards for direct
3 care registered nurses is a critical component of assuring
4 that there is adequate hospital staffing at all levels to
5 improve the delivery of quality care and protect patient
6 safety.

7 Section 10. Definitions. In this Act:

8 "Acuity system" means an established measurement tool that
9 does all of the following:

10 (1) predicts nursing care requirements for individual
11 patients based on the severity of patient illness, the need
12 for specialized equipment and technology, the intensity of
13 nursing interventions required, and the complexity of
14 clinical nursing judgment that is needed to design,
15 implement, and evaluate the patient's nursing care plan;

16 (2) details the amount of nursing care needed, both in
17 the number of nurses and in the skill mix of nursing
18 personnel required, on a daily basis for each patient in a
19 nursing department or unit;

20 (3) takes into consideration the patient care services
21 provided not only by registered nurses but also by direct
22 care licensed practical nurses and other health care
23 personnel; and

24 (4) is stated in terms that can be readily used and
25 understood by nurses.

26 "Nurse" and "registered nurse" means any person licensed as
27 a registered nurse or a registered professional nurse under the
28 Nursing and Advanced Practice Nursing Act.

29 "Direct care registered nurse" means an individual who has
30 been granted a license to practice as a registered nurse and
31 who provides bedside care for one or more patients.

32 "Director" means the Director of Public Health.

33 "Department" means the Department of Public Health.

34 "Employment" includes the provision of services under a
35 contract or other arrangement.

1 "Hospital" means an entity licensed under the Hospital
2 Licensing Act.

3 "Staffing plan" means a staffing plan required under
4 Section 15 of this Act.

5 Section 15. Staffing plan required.

6 (a) Each hospital shall implement a staffing plan that (i)
7 provides adequate, appropriate, and quality delivery of health
8 care services, (ii) protects patient safety, and (iii) is
9 consistent with the requirements of this Act.

10 (b) Subject to Section 20 of this Act, the requirements of
11 subsection (a) shall take effect not later than one year after
12 the effective date of this Act.

13 Section 20. Minimum direct care registered
14 nurse-to-patient ratios.

15 (a) For the purposes of this Section:

16 "Assigned" means the registered nurse has responsibility
17 for the provision of care to a particular patient within his or
18 her scope of practice.

19 "Assist" means that licensed nurses may provide patient
20 care beyond their patient assignments if the tasks performed
21 are specific and time-limited.

22 "Declared state-of-emergency" means a state-of-emergency
23 that has been declared by the federal government or the head of
24 the appropriate State or local governmental agency having
25 authority to declare that the State, county, municipality, or
26 locality is in a state-of-emergency, but does not include
27 consistent understaffing.

28 (b) A hospital's staffing plan shall provide that, during
29 each shift within a unit of the hospital, a direct care
30 registered nurse may be assigned to not more than the following
31 number of patients in that unit:

32 (1) One patient in operating room units and trauma
33 emergency units.

34 (2) 2 patients in critical care units, including

1 emergency critical care and intensive care units, labor and
2 delivery units, and post anesthesia units.

3 (3) 3 patients in ante partum units, emergency room
4 units, pediatrics units, step-down units, and telemetry
5 units.

6 (4) 4 patients in intermediate care nursery units,
7 specialty care units, medical or surgical units, and acute
8 care psychiatric units.

9 (5) 5 patients in rehabilitation units.

10 (6) 6 patients in postpartum (3 couplets) units and
11 well-baby nursery units.

12 Registered nurse-to-patient ratios represent the maximum
13 number of patients who may be assigned to one registered nurse
14 at any one time. There shall be no averaging of the number of
15 patients and the total number of registered nurses on the unit
16 during any one shift nor over any period of time. The
17 registered nurse-to-patient ratio must be maintained at all
18 times throughout each shift. Only nurses providing direct
19 patient care shall be included in the ratios.

20 Staffing for care not requiring a registered nurse is not
21 included within these ratios. Additional staff in excess of
22 these prescribed ratios, including non-licensed staff, shall
23 be assigned in accordance with the hospital's documented
24 patient acuity system for determining nursing care
25 requirements, considering factors that include the severity of
26 the illness, the need for specialized equipment and technology,
27 the complexity of clinical judgment needed to design,
28 implement, and evaluate the patient care plan, the ability for
29 self-care, and the licensure of the personnel required for
30 care.

31 Nurse administrators, nurse supervisors, nurse managers,
32 charge nurses, and other licensed nurses shall be included in
33 the calculation of the licensed nurse-to-patient ratio only
34 when those licensed nurses are engaged in providing direct
35 patient care. When a nurse administrator, nurse supervisor,
36 nurse manager, charge nurse, or other licensed nurse is engaged

1 in activities other than direct patient care, that nurse shall
2 not be included in the ratio. Nurse administrators, nurse
3 supervisors, nurse managers, and charge nurses who have
4 demonstrated current competence to the hospital in providing
5 care on a particular unit may relieve nurses during breaks,
6 meals, and other routine, expected absences from the unit.

7 (c) Nothing in this Section shall prohibit a nurse from
8 assisting with specific tasks within the scope of his or her
9 practice for a patient assigned to another nurse.

10 (d) Within one year after the effective date of this Act,
11 the Department shall adopt rules providing specific guidance on
12 the implementation of the minimum direct care registered
13 nurse-to-patient ratios. The Department shall adopt these
14 rules in accordance with the Department's licensing and
15 certification rules and other professional and vocational
16 rules under Illinois law.

17 (e) The Director may apply the minimum direct care
18 registered nurse-to-patient ratios established in subsection
19 (b) of this Section to a type of hospital unit not referred to
20 in that subsection (b) if that other unit performs a function
21 similar to the function performed by a unit referred to in
22 subsection (b).

23 (f) If necessary to protect patient safety, the Director
24 may prescribe regulations that (i) increase minimum direct care
25 registered nurse-to-patient ratios under this Section to
26 further limit the number of patients that may be assigned to
27 each direct care nurse or (ii) add minimum direct care
28 registered nurse-to-patient ratios for units not referred to in
29 subsections (b) and (d). These regulations shall be prescribed
30 after consultation with affected hospitals and registered
31 nurses.

32 (g) The requirements established under this Section shall
33 not apply during a declared state-of-emergency, if a hospital
34 is requested or expected to provide an exceptional level of
35 emergency or other medical services.

36 (h) Nursing personnel from temporary nursing agencies

1 shall not be responsible for a patient care unit without having
2 demonstrated clinical and supervisory competence.

3 (i) The requirements this Section shall take effect as soon
4 as practicable, as determined by the Director, but not later
5 than 2 years after the effective date of this Act.

6 Section 25. Development and reevaluation of staffing plan.

7 (a) In developing a staffing plan, a hospital shall provide
8 for direct care registered nurse-to-patient ratios above the
9 minimum direct care registered nurse-to-patient ratios
10 required under Section 20 of this Act, if appropriate, based
11 upon consideration of all of the following factors:

12 (1) the number of patients and acuity level of patients
13 as determined by the application of an acuity system, on a
14 shift-by-shift basis;

15 (2) the anticipated admissions, discharges, and
16 transfers of patients during each shift that impacts direct
17 patient care;

18 (3) specialized experience required of direct care
19 registered nurses on a particular unit;

20 (4) staffing levels and services provided by other
21 health care personnel in meeting direct patient care needs
22 not required by a direct care registered nurse;

23 (5) the level of technology available that affects the
24 delivery of direct patient care;

25 (6) the level of familiarity with hospital practices,
26 policies, and procedures by temporary agency direct care
27 registered nurses used during a shift; and

28 (7) obstacles to efficiency in the delivery of patient
29 care presented by physical layout.

30 (b) A hospital shall specify the system used to document
31 actual staffing in each unit for each shift.

32 (c) A hospital shall annually evaluate (i) its staffing
33 plan in each unit in relation to actual patient care
34 requirements and (ii) the accuracy of its acuity system and
35 update its staffing plan and acuity system to the extent

1 appropriate based on the evaluation.

2 (d) A staffing plan of a hospital shall be developed and
3 subsequent reevaluations shall be conducted under this Section
4 on the basis of input from direct care registered nurses at the
5 hospital or, if the nurses are represented through collective
6 bargaining, from the applicable recognized or certified
7 collective bargaining representative of the nurses.

8 (e) A hospital shall submit to the Director its staffing
9 plan and any annual updates under subsection (c).

10 (f) Nothing in this Act shall be construed to permit
11 conduct prohibited under the National Labor Relations Act or
12 under the Federal Labor Relations Act.

13 Section 30. Protection of nurses and other individuals

14 (a) A nurse may refuse to accept an assignment as a nurse
15 in a hospital if either of the following conditions apply:

16 (1) the assignment would violate the provisions of
17 Sections 15, 20, or 25; or

18 (2) the nurse is not prepared by education, training,
19 or experience to fulfill the assignment without
20 compromising the safety of any patient or jeopardizing his
21 or her license.

22 The requirements of this subsection (a) shall apply to
23 refusals occurring on or after the effective date of this Act,
24 except that the requirements of paragraph (2) of this
25 subsection (a) shall not apply to refusals in any hospital
26 before the requirements of Section 15 of this Act apply to that
27 hospital.

28 (b) No hospital shall discharge, discriminate, or
29 retaliate in any manner with respect to any aspect of
30 employment, including discharge, promotion, compensation, or
31 terms, conditions, or privileges of employment, against a nurse
32 based on the nurse's refusal of a work assignment under
33 subsection (a). The requirements of this subsection (b) shall
34 apply to refusals occurring on or after the effective date of
35 this Act.

1 (c) No hospital shall file a complaint or a report against
2 a nurse with the appropriate State professional disciplinary
3 agency because of the nurse's refusal of a work assignment
4 under subsection (a). The requirements of this subsection (c)
5 shall apply to refusals occurring on or after the effective
6 date of this Act.

7 (d) Any nurse who has been discharged, discriminated, or
8 retaliated against, or against whom a complaint has been filed,
9 in violation of this Section may bring a cause of action in a
10 State court. A nurse who prevails in the cause of action shall
11 be entitled to one or more of the following:

12 (1) Reinstatement.

13 (2) Reimbursement of lost wages, compensation, and
14 benefits.

15 (3) Attorneys' fees.

16 (4) Court costs.

17 (5) Other damages.

18 The requirements of this subsection (d) shall apply to
19 refusals occurring on or after the effective date of this Act.

20 (e) A nurse or other individual may file a complaint with
21 the Director against a hospital that violates any provision of
22 this Act. For any complaint filed, the Director shall do all of
23 the following:

24 (1) receive and investigate the complaint;

25 (2) determine whether a violation of this Act as
26 alleged in the complaint has occurred; and

27 (3) if such a violation has occurred, issue an order
28 that the complaining nurse or individual shall not suffer
29 any retaliation under subsections (b), (c) or (f).

30 (f) A hospital shall not discriminate or retaliate in any
31 manner with respect to any aspect of employment, including
32 hiring, discharge, promotion, compensation, or terms,
33 conditions, or privileges of employment against any individual
34 who in good faith, individually, or in conjunction with another
35 person or persons, does any of the following:

36 (1) reports a violation or a suspected violation of

1 this Act to the Director, a public regulatory agency, a
2 private accreditation body, or the management personnel of
3 the hospital;

4 (2) initiates, cooperates, or otherwise participates
5 in an investigation or proceeding brought by the Director,
6 a public regulatory agency, or a private accreditation body
7 concerning matters covered by this Act; or

8 (3) informs or discusses with other individuals or with
9 representatives of hospital employees a violation or
10 suspected violation of this Act.

11 For the purposes of this subsection (f), an individual
12 shall be deemed to be acting in good faith if the individual
13 reasonably believes that the information reported or disclosed
14 is true and that a violation of this Act has occurred or may
15 occur.

16 The requirements of this subsection (f) shall apply to
17 those actions set forth in paragraphs (1) and (3) of this
18 subsection (f) and occurring on or after the effective date
19 this Act. The requirements of this subsection (f) shall apply
20 to initiation, cooperation, or participation in an
21 investigation or proceeding on or after the effective date of
22 this Act.

23 (g) Beginning 18 months after the effective date of this
24 Act, a hospital shall post in an appropriate location in each
25 unit a conspicuous notice in a form specified by the Director
26 that shall do each of the following:

27 (1) explain the rights of nurses and other individuals
28 under this Section; and

29 (2) include a statement that a nurse or other
30 individual may file a complaint with the Director against a
31 hospital that violates the provisions of this Act and
32 provide instructions on how to file this complaint.

33 Section 35. Penalties. The Director may impose civil
34 penalties or suspend, revoke, or place conditional provisions
35 upon a license of a hospital for a violation of any provision

1 of this Act. The Department shall adopt by rule a schedule
2 establishing the amount of civil penalty that may be imposed
3 for any violation of Sections 15, 20, 25, or 30 of this Act
4 when there is a reasonable belief that safe patient care has
5 been or may be negatively impacted. Each violation of a
6 staffing plan shall be considered a separate violation.

7 In addition to any other monies set aside and appropriated
8 to the Department for nursing scholarships awarded pursuant to
9 the Nursing Education Scholarship Law, revenues collected from
10 fines incurred under this Act shall be allocated to the
11 Department for that same purpose.