
SENATE BILL 5696

State of Washington

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By Senators Franklin, Benton, Kohl-Welles, Keiser, Fairley, Kastama, Murray, McAuliffe, Kline and Rasmussen

Read first time 01/29/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the Washington state patient safety act;
2 amending RCW 70.56.020; adding new sections to chapter 70.41 RCW;
3 creating new sections; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that research
6 demonstrates the critical role that registered nurses play in improving
7 patient safety and quality of care. Greater numbers of registered
8 nurses available to care for hospitalized patients are key to reducing
9 errors, complications, and adverse patient care events. Moreover,
10 higher nurse staffing levels result in improved staff safety and
11 satisfaction and reduced incidences of workplace injuries. In
12 addition, health care professional, technical, and support staff
13 comprise vital components of the patient care team, bringing their
14 particular skills and services to ensuring quality patient care.
15 Therefore, in order to protect patients and to support greater
16 retention of registered nurses, to promote evidence-based nurse
17 staffing, and to increase transparency of health care data and decision
18 making, the legislature finds that ensuring sufficient nurse staffing
19 to meet patient care needs is an urgent public policy priority.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this section and sections 3 through 5, 7, and 8 of this act
3 unless the context clearly requires otherwise.

4 (1) "Hospital" has the same meaning as defined in RCW 70.41.020,
5 except that "hospital" also includes the state hospitals as defined in
6 RCW 72.23.010.

7 (2) "Intensity" means the level of patient needs in terms of
8 nursing care as determined by a registered nurse providing direct
9 patient care, taking into account at least the following factors:

10 (a) Severity and urgency of the patient's condition;

11 (b) Complexity of either planning or providing, or both, the care
12 required by the patient;

13 (c) Scheduled or anticipated procedures or events, including those
14 that necessitate increased frequency of assessment or intervention;

15 (d) Age and cognitive and functional ability of the patient,
16 including ability to perform self-care activities;

17 (e) Availability of patient social supports including
18 institutional, family, or community support;

19 (f) Level of patient adherence or ability to comply with patient
20 care;

21 (g) Patient and family educational needs, including assessment of
22 learning capabilities of patient and family;

23 (h) Intactness of family unit, the availability of family to
24 provide either emotional support or functional support, or both, and
25 the ability of the family to participate in patient decision-making
26 processes;

27 (i) Communications skills of the patient; and

28 (j) Other needs identified by the patient and by the registered
29 nurse.

30 (3) "Nursing personnel" means registered nurses, licensed practical
31 nurses, and unlicensed assistive nursing personnel providing direct
32 patient care.

33 (4) "Patient assignment limits" means the maximum number of
34 patients that a hospital may assign to a registered nurse at any one
35 time.

36 (5) "Patient care unit" means any unit or area of the hospital that
37 provides patient care.

1 (6) "Skill mix" means the numbers and relative percentages of
2 registered nurses, licensed practical nurses, and unlicensed assistive
3 personnel among the total number nursing personnel.

4 (7) "Staffing committee" means the committee established by a
5 hospital under section 4 of this act.

6 NEW SECTION. **Sec. 3.** (1) By September 1, 2007, the secretary
7 shall appoint the advisory committee on nurse staffing. The advisory
8 committee on nurse staffing consists of fifteen members, who include:

9 (a) Six representatives from professional and labor organizations
10 representing nurses involved in direct patient care, to include at
11 least four registered nurses, three of whom provide direct patient
12 care;

13 (b) Two representatives of an organization representing hospitals;

14 (c) Two registered nurses in managerial or executive roles, who are
15 representatives of an organization representing nurse executives;

16 (d) One nursing faculty member of an academic institution preparing
17 registered nurses;

18 (e) One consumer representative;

19 (f) The secretary or the secretary's designee;

20 (g) One chief executive officer or chief operating officer of a
21 hospital; and

22 (h) One human resources director or executive of a health care
23 facility who is a representative of an organization representing health
24 care human resources executives.

25 (2) The advisory committee on nurse staffing shall:

26 (a) Recommend patient assignment limits to be adopted by the
27 department;

28 (b) Recommend quality indicators in addition to those specified in
29 section 5 of this act; and

30 (c) Make other recommendations regarding the development and
31 implementation of hospital staffing plans as the secretary requests.

32 (3) In making its recommendations, the advisory committee on nurse
33 staffing shall consider:

34 (a) Current research findings regarding patient safety, outcomes of
35 care, nurse staffing, and related areas;

36 (b) Reports and recommendations issued by authoritative national
37 and state bodies and agencies, including but not limited to the

1 institute of medicine, the joint commission on accreditation of
2 healthcare organizations, the national quality forum, and the agency
3 for healthcare research and quality;

4 (c) Guidelines adopted or published by national nursing
5 professional associations, specialty nursing organizations, and other
6 health professional organizations;

7 (d) Relevant information regarding legislation or rules on nurse
8 staffing considered or adopted in other states;

9 (e) Different levels of intensity, complexity, or need presented by
10 patients in different types of patient care units; and

11 (f) Availability of health care professional, technical, and
12 support staff whose skills and services are essential to delivering
13 quality patient care.

14 (4)(a) By March 1, 2008, the department shall establish patient
15 assignment limits to apply to all hospitals in the state, based on the
16 findings and recommendations of the advisory committee on nurse
17 staffing. These patient assignment limits represent the maximum number
18 of patients for which any registered nurse may be assigned at any one
19 time to provide care. This number includes patients for whose care the
20 registered nurse is responsible, but for whom aspects of care have been
21 delegated to other nursing personnel. In establishing patient
22 assignment limits, the department may establish different limits for
23 different types of patient care units or areas.

24 (b) Patient assignment limits must serve as a minimum staffing
25 standard. Actual staffing levels on any hospital unit during any shift
26 must be determined by the staffing plan developed by the hospital
27 staffing committee, utilizing the criteria specified in section 4 of
28 this act. However, compliance with these patient assignment limits
29 alone is not sufficient to demonstrate compliance with the requirements
30 for development and implementation of staffing plans under section 4 of
31 this act.

32 (c) Patient assignment limits apply:

33 (i) To individual registered nurse assignments, and may not be
34 construed as establishing average assignments for a hospital or patient
35 care unit; and

36 (ii) At all times that a registered nurse is on duty, including
37 times when other nurses are away from the unit, on a break, or
38 otherwise not providing patient care.

1 NEW SECTION. **Sec. 4.** (1) By January 1, 2008, each hospital shall
2 establish a staffing committee, at least one-half of whose members are
3 registered nurses currently providing direct patient care. However,
4 the composition of the staffing committee must be consistent with any
5 applicable provisions of the collective bargaining agreement, if any,
6 between the hospital and its nursing staff. If registered nurses are
7 represented by a collective bargaining representative, the committee's
8 direct-care registered nurse members must be selected by that
9 collective bargaining representative. Participation in the committee
10 by a hospital employee shall be considered a part of the employee's
11 regularly scheduled workweek.

12 (2)(a) By September 1, 2008, each hospital shall implement a
13 staffing plan that sets the minimum number and skill mix of nursing
14 personnel required on each shift in each unit in the hospital in which
15 patient care is provided. The staffing plans must be developed by the
16 hospital staffing committee.

17 (b)(i) Staffing levels set by the staffing plan may not include
18 patient care assignments that exceed the patient assignment limits
19 established under section 3(4) of this act.

20 (ii) Staffing plans must be based on at least the following
21 additional criteria for each unit:

22 (A) Census, including total numbers of patients on the unit on each
23 shift at any one time and activity such as patient discharges,
24 admissions, and transfers;

25 (B) Level of intensity of all patients and nature of the care to be
26 delivered on each shift;

27 (C) Skill mix;

28 (D) Level of experience and specialty certification or training of
29 nursing personnel providing care;

30 (E) The need for specialized or intensive equipment;

31 (F) The architecture and geography of the patient care unit,
32 including but not limited to placement of patient rooms, treatment
33 areas, nursing station, medication preparation areas, and equipment;
34 and

35 (G) Staffing guidelines adopted or published by national nursing
36 professional associations, specialty nursing organizations, and other
37 health professional organizations.

38 (iii) Staffing plans must at least:

1 (A) Include appropriate limits on the use of agency and traveling
2 nurses;

3 (B) Be consistent with the scopes of practice for registered nurses
4 and licensed practical nurses and the scope of legally permissible
5 duties of unlicensed assistive personnel;

6 (C) Include adequate staffing to allow for staff time off,
7 illnesses, meal and break time, and educational, health, and other
8 leaves; and

9 (D) Include a process for review by the staffing committee that
10 ensures compliance with the staffing plan, provides for the review of
11 incidents and staff concerns, and tracks staffing patterns, the number
12 of patients and the patients' conditions, and the intensity of the
13 patients' nursing care needs. These reviews must be performed at least
14 semiannually.

15 (c) The staffing plan must not diminish other standards contained
16 in law, rules, or the terms of an applicable collective bargaining
17 agreement, if any, between the hospital and its nursing staff, and must
18 be consistent with any such agreement.

19 (d) Each hospital shall submit the staffing plan for review by the
20 department on at least an annual basis.

21 (3) Each hospital shall assign nursing personnel to each patient
22 care unit in accordance with its staffing plan. Shift-to-shift
23 adjustments in staffing levels required by the plan may be made only if
24 based upon assessment by a registered nurse providing direct patient
25 care on the patient care unit, utilizing procedures specified by the
26 staffing committee.

27 (4) Each hospital shall post, in a public area on each patient care
28 unit, the staffing plan for that shift on that unit as required by this
29 section along with a listing of actual nurse staffing levels, which
30 shall be updated at least once every eight hours. The staffing plan
31 and current staffing levels must also be made available to patients and
32 visitors upon request.

33 (5) A hospital may not retaliate against or engage in any form of
34 intimidation of:

35 (a) An employee for performing any duties or responsibilities in
36 connection with participation on the staffing committee; or

37 (b) An employee, patient, or other individual who notifies the
38 staffing committee, the hospital administration, or the department that

1 any schedule or nursing personnel assignment fails to comply with the
2 posted staffing plan, or that the hospital has failed to develop or
3 implement a staffing plan consistent with sections 2 through 5, 7, and
4 8 of this act and RCW 70.56.020(4)(a).

5 NEW SECTION. **Sec. 5.** (1) Semiannually, hospitals shall collect
6 and submit to the department information regarding nurse staffing. In
7 addition to the skill mix of registered nurses, licensed practical
8 nurses, unlicensed assistive nursing personnel, nurses supplied by
9 temporary staffing agencies including traveling nurses, and nursing
10 care hours per patient per day, such information must also include:

- 11 (a) Death among surgical inpatients with treatable serious
12 complications (failure to rescue);
- 13 (b) Prevalence of urinary tract infections;
- 14 (c) Hospital-acquired pneumonia;
- 15 (d) Incidence of patient falls; and
- 16 (e) Other measures to be established by the department.

17 (2) In adopting rules under this section, the department shall
18 determine effective means for making the information identified in
19 subsection (1) of this section readily available to the public,
20 including but not limited to posting it in public areas of the hospital
21 and making it available through the internet.

22 **Sec. 6.** RCW 70.56.020 and 2006 c 8 s 106 are each amended to read
23 as follows:

24 (1) The legislature intends to establish an adverse health events
25 and incident reporting system that is designed to facilitate quality
26 improvement in the health care system, improve patient safety and
27 decrease medical errors in a nonpunitive manner. The reporting system
28 shall not be designed to punish errors by health care practitioners or
29 health care facility employees.

30 (2) Each medical facility shall notify the department of health
31 regarding the occurrence of any adverse event and file a subsequent
32 report as provided in this section. Notification must be submitted to
33 the department within forty-eight hours of confirmation by the medical
34 facility that an adverse event has occurred. A subsequent report must
35 be submitted to the department within forty-five days after
36 confirmation by the medical facility that an adverse event has

1 occurred. The notification and report shall be submitted to the
2 department using the internet-based system established under RCW
3 70.56.040(2).

4 (3) The notification and report shall be filed in a format
5 specified by the department after consultation with medical facilities
6 and the independent entity. The format shall identify the facility,
7 but shall not include any identifying information for any of the health
8 care professionals, facility employees, or patients involved. This
9 provision does not modify the duty of a hospital to make a report to
10 the department of health or a disciplinary authority if a licensed
11 practitioner has committed unprofessional conduct as defined in RCW
12 18.130.180.

13 (4)(a) As part of the report filed under this section, the medical
14 facility must:

15 (i) Include the following information:

16 (A) The number of patients, registered nurses, licensed practical
17 nurses, and unlicensed assistive personnel present in the relevant
18 patient care unit at the time that the reported adverse event occurred;

19 (B) The number of nursing personnel present at the time of the
20 adverse event who have been supplied by temporary staffing agencies,
21 including traveling nurses;

22 (C) The number of nursing personnel, if any, on the patient care
23 unit working beyond their regularly scheduled number of hours or shifts
24 at the time of the event and the number of consecutive hours worked by
25 each such nursing personnel at the time of the adverse event; and

26 (ii) Conduct a root cause analysis of the event, describe the
27 corrective action plan that will be implemented consistent with the
28 findings of the analysis, or provide an explanation of any reasons for
29 not taking corrective action.

30 (b) The department shall adopt rules, in consultation with medical
31 facilities and the independent entity, related to the form and content
32 of the root cause analysis and corrective action plan. In developing
33 the rules, consideration shall be given to existing standards for root
34 cause analysis or corrective action plans adopted by the joint
35 commission on accreditation of health facilities and other national or
36 governmental entities.

37 (c) For purposes of this subsection (4), "nursing personnel" and

1 "patient care unit" have the same meaning as defined in section 2 of
2 this act.

3 (5) If, in the course of investigating a complaint received from an
4 employee of a medical facility, the department determines that the
5 facility has not reported an adverse event or undertaken efforts to
6 investigate the occurrence of an adverse event, the department shall
7 direct the facility to report or to undertake an investigation of the
8 event.

9 (6) The protections of RCW 43.70.075 apply to reports of adverse
10 events that are submitted in good faith by employees of medical
11 facilities.

12 NEW SECTION. Sec. 7. (1) The department shall investigate
13 complaints of violations of sections 2 through 5 of this act. For a
14 violation, the department may take either or both of the following
15 actions:

- 16 (a) Suspend or revoke the license of a hospital; and/or
- 17 (b) Impose a civil penalty in the amount of two thousand five
18 hundred dollars in the event of a hospital's first violation of these
19 provisions, a civil penalty in the amount of five thousand dollars in
20 the event of a second violation, and a civil penalty in the amount of
21 ten thousand dollars for the third and subsequent violations.

22 (2) The department shall maintain for public inspection records of
23 any civil penalties, administrative actions, or license suspensions or
24 revocations imposed on hospitals under this section.

25 NEW SECTION. Sec. 8. The department shall adopt rules as
26 necessary to implement sections 2 through 5, 7, and 8 of this act and
27 RCW 70.56.020(4)(a).

28 NEW SECTION. Sec. 9. This act may be known and cited as the
29 Washington state patient safety act.

30 NEW SECTION. Sec. 10. Sections 2 through 5, 7, and 8 of this act
31 are each added to chapter 70.41 RCW.

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