

SHB 1809 - H AMD 339

By Representative Morrell

ADOPTED 03/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) Research demonstrates the critical role that registered nurses
5 play in improving patient safety and quality of care;

6 (b) Greater numbers of registered nurses available to care for
7 hospitalized patients are key to reducing errors, complications, and
8 adverse patient care events;

9 (c) Higher nurse staffing levels result in improved staff safety
10 and satisfaction and reduced incidences of workplace injuries;

11 (d) Health care professional, technical, and support staff comprise
12 vital components of the patient care team, bringing their particular
13 skills and services to ensuring quality patient care; and

14 (e) Addressing nurse staffing issues to meet patient care needs is
15 an urgent public policy priority.

16 (2) Therefore, in order to protect patients and to support greater
17 retention of registered nurses, to promote evidence-based nurse
18 staffing, and to increase transparency of health care data and decision
19 making, the legislature intends to establish a program for the
20 development of evidence-based hospital staffing plans.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.41 RCW
22 to read as follows:

23 (1) DEFINITIONS. The definitions in this subsection apply
24 throughout this section unless the context clearly requires otherwise.

25 (a) "Central nursing resource center" means the center established
26 in RCW 18.79.202.

27 (b) "Hospital" has the same meaning as defined in RCW 70.41.020,
28 except that "hospital" also includes the state hospitals as defined in

1 RCW 72.23.010 and the psychiatric hospitals licensed under chapter
2 71.12 RCW.

3 (c) "Intensity" means the level of patient needs in terms of
4 nursing care as determined by a registered nurse providing direct
5 patient care, taking into account at least the following factors:

6 (i) Severity and urgency of the patient's condition;

7 (ii) Complexity of either planning or providing, or both, the care
8 required by the patient;

9 (iii) Scheduled or anticipated procedures or events, including
10 those that necessitate increased frequency of assessment or
11 intervention;

12 (iv) Age and cognitive and functional ability of the patient,
13 including ability to perform self-care activities;

14 (v) Availability of patient social supports including
15 institutional, family, or community support;

16 (vi) Level of patient adherence or ability to comply with patient
17 care;

18 (vii) Patient and family educational needs, including assessment of
19 learning capabilities of patient and family;

20 (viii) Intactness of family unit, the availability of family to
21 provide either emotional support or functional support, or both, and
22 the ability of the family to participate in patient decision-making
23 processes;

24 (ix) Communications skills of the patient; and

25 (x) Other needs identified by the patient and by the registered
26 nurse.

27 (d) "Nursing personnel" means registered nurses, licensed practical
28 nurses, and unlicensed assistive nursing personnel providing direct
29 patient care.

30 (e) "Patient assignment standards" means the maximum number of
31 patients that a hospital may assign to a registered nurse at any one
32 time.

33 (f) "Patient care unit" means any unit or area of the hospital that
34 provides patient care.

35 (g) "Skill mix" means the numbers and relative percentages of
36 registered nurses, licensed practical nurses, and unlicensed assistive
37 personnel among the total number of nursing personnel.

1 (h) "Staffing committee" means the committee established by a
2 hospital under subsection (2) of this section.

3 (2) HOSPITAL STAFFING COMMITTEES. (a) By January 1, 2008, each
4 hospital shall establish a staffing committee. At least one-half of
5 the staffing committee members must be registered nurses currently
6 providing direct patient care, unless another ratio of registered nurse
7 members is required to be consistent with an applicable provision of a
8 collective bargaining agreement between the hospital and its nursing
9 staff. If registered nurses are represented by a collective bargaining
10 representative, the committee's direct patient care registered nurse
11 members must be selected by that collective bargaining representative.

12 (b) Participation in the staffing committee by a hospital employee
13 shall be considered a part of the employee's regularly scheduled
14 workweek.

15 (3) PATIENT ASSIGNMENT STANDARDS RECOMMENDATION. (a) By June 1,
16 2008, the central nursing resource center must forward recommendations
17 to the department as required in this subsection. The recommendations
18 must be evidence-based and must be developed by a task force convened
19 by the central nursing resource center. Among its members, the task
20 force must include representatives of organizations that represent
21 hospitals, including rural hospitals. The recommendations must
22 address:

23 (i) Patient assignment standards in hospitals; and

24 (ii) The development and implementation of hospital staffing plans,
25 as the secretary may request.

26 (b) In developing its recommendations, the task force must
27 consider:

28 (i) Current research findings regarding patient safety, outcomes of
29 care, nurse staffing, and related areas;

30 (ii) Reports and recommendations issued by authoritative national
31 and state bodies and agencies, including but not limited to the
32 institute of medicine, the joint commission, the national quality
33 forum, and the agency for healthcare research and quality;

34 (iii) Guidelines adopted or published by national nursing
35 professional associations, specialty nursing organizations, and other
36 health professional organizations;

37 (iv) Relevant information regarding legislation or rules on nurse
38 staffing considered or adopted in other states;

1 (v) Different levels of intensity, complexity, or need presented by
2 patients in different types of patient care units; and

3 (vi) Availability of health care professional, technical, and
4 support staff whose skills and services are essential to delivering
5 quality patient care.

6 (c) The department must post the recommendations forwarded by the
7 central nursing resource center on its web site and allow at least a
8 thirty-day public comment period. By July 15, 2008, the department
9 must publish final recommendations, to be posted on the department's
10 web site and provided to the hospitals.

11 (d) On a biennial basis, a task force convened by the central
12 nursing resource center pursuant to (a) of this subsection must review
13 the considerations listed in (b) of this subsection and determine
14 whether the final recommendations published under this subsection
15 should be updated. New recommendations, if any, developed by the task
16 force and forwarded to the department by the central nursing resource
17 center must be posted for public comment as provided in (c) of this
18 subsection, and the department must publish final recommendations
19 within forty-five days of posting the central nursing resource center's
20 recommendations.

21 (4) HOSPITAL STAFFING PLANS. (a)(i) By January 1, 2009, each
22 hospital's staffing committee must develop, and the hospital implement,
23 a staffing plan that sets the minimum number and skill mix of nursing
24 personnel required on each shift in each patient care unit.

25 (ii) In establishing staffing levels for the staffing plan, the
26 staffing committee must consider the patient assignment standards
27 recommended in the final recommendations published under subsection (3)
28 of this section. If the staffing plan adopts staffing levels that
29 provide lower staffing than the final recommendations published under
30 subsection (3) of this section, the staffing plan must include an
31 explanation of the reasons for the deviation.

32 (iii) Staffing plans must be based on at least the following
33 additional criteria for each patient care unit:

34 (A) Census, including total numbers of patients on each shift at
35 any one time and activity such as patient discharges, admissions, and
36 transfers;

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

- 1 (C) Skill mix;
- 2 (D) Level of experience and specialty certification or training of
3 nursing personnel providing care;
- 4 (E) The need for specialized or intensive equipment;
- 5 (F) The architecture and geography of the patient care unit,
6 including but not limited to placement of patient rooms, treatment
7 areas, nursing station, medication preparation areas, and equipment;
8 and
- 9 (G) Staffing guidelines adopted or published by national nursing
10 professional associations, specialty nursing organizations, and other
11 health professional organizations.
- 12 (iv) Staffing plans must at a minimum:
- 13 (A) Include appropriate limits on the use of agency and traveling
14 nurses;
- 15 (B) Be consistent with the scopes of practice for registered nurses
16 and licensed practical nurses and the scope of legally permissible
17 duties of unlicensed assistive personnel;
- 18 (C) Include adequate staffing to allow for staff time off,
19 illnesses, meal and break time, and educational, health, and other
20 leaves;
- 21 (D) Include a process for review by the staffing committee that
22 ensures compliance with the staffing plan, provides for the committee's
23 review of incidents and staff concerns, and tracks staffing patterns,
24 the number of patients and the patients' conditions, and the intensity
25 of the patients' nursing care needs. These reviews must be performed
26 at least semiannually; and
- 27 (E) Be updated at least annually.
- 28 (v) The staffing plan must not diminish other standards contained
29 in law, rules, or the terms of an applicable collective bargaining
30 agreement, if any, between the hospital and its nursing staff, and must
31 be consistent with any such agreement.
- 32 (b) In implementing the staffing plan, each hospital shall:
- 33 (i) Assign nursing personnel to each patient care unit in
34 accordance with its staffing plan. Shift-to-shift adjustments in
35 staffing levels required by the plan may be made only if based upon
36 assessment by a registered nurse providing direct patient care on the
37 patient care unit, utilizing procedures specified by the staffing
38 committee;

1 (ii) Make readily available the staffing plan and staffing levels
2 to patients and visitors upon request; and

3 (iii) Make accessible to staff a process for reporting inadequate
4 staffing or staffing at variance with the staffing plan. Any reports
5 made under this subsection must be provided to the staffing committee
6 and the hospital and be retained by the hospital for department review
7 under subsection (5) of this section.

8 (5) HOSPITAL STAFFING PLAN REVIEW AND PUBLICATION. (a) Each
9 hospital shall submit its staffing plan and any reports made under
10 subsection (4)(b)(iii) for review by the department at least every
11 eighteen months, which review may be in conjunction with any on-site
12 licensing survey or inspection conducted by the department. The
13 hospital may also submit any additional information related to
14 staffing, including explanations of any staffing at variance with the
15 adopted staffing plan and actions taken to resolve staffing issues.

16 (b) In collaboration with Washington state quality forum
17 established in section 5, chapter . . . (House Bill No. 2098), Laws of
18 2007, the department must develop standards for comparing hospital
19 staffing plans, and each hospital's adherence to its staffing plan in
20 practice, with the final recommendations published under subsection (3)
21 of this section. The department must rate the staffing plans according
22 to the standards and provide the ratings to the Washington state
23 quality forum to be disseminated, at a minimum, on its web site as part
24 of its research regarding health care quality, evidence-based medicine,
25 and patient safety. If the Washington state quality forum is not
26 established, the department shall perform the duties required under
27 this section and post the staffing plan information on its web site.

28 (6) HOSPITAL STAFFING REPORTS. (a) Semiannually, hospitals shall
29 collect and submit to the department information regarding nurse
30 staffing. In addition to the skill mix of registered nurses, licensed
31 practical nurses, unlicensed assistive nursing personnel, nurses
32 supplied by temporary staffing agencies including traveling nurses, and
33 nursing care hours per patient per day, such information must also
34 include:

35 (i) Death among surgical inpatients with treatable serious
36 complications (failure to rescue);

37 (ii) Prevalence of urinary tract infections;

38 (iii) Hospital-acquired pneumonia;

1 (iv) Incidence of patient falls; and

2 (v) Other measures to be established by the department.

3 (b) The information submitted under this subsection must be posted
4 along with the ratings of staffing plans as provided in subsection
5 (5)(b) of this section.

6 (7) RETALIATION PROHIBITED. A hospital may not retaliate against
7 or engage in any form of intimidation of:

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

10 (b) An employee, patient, or other individual who notifies the
11 staffing committee, the hospital administration, or the department that
12 any schedule or nursing personnel assignment fails to comply with the
13 staffing plan, or that the hospital has failed to develop or implement
14 a staffing plan.

15 (8) COMPLAINTS. (a) The department must investigate complaints
16 from hospital staff that a hospital has failed to comply with a
17 staffing plan, has failed to develop or implement a staffing plan, or
18 has violated subsection (7) of this section. If there is reasonable
19 cause to believe that a violation has been or is occurring, the
20 department must immediately endeavor to eliminate the violation by
21 conference with the interested parties. If a resolution is not
22 reached, the department must make a finding to that effect. Such
23 findings must be posted along with the ratings of staffing plans as
24 provided in subsection (5)(b) of this section.

25 (b) The department shall maintain a toll-free telephone number for
26 patients to use to report the violations listed in (a) of this
27 subsection. The department is not required to investigate such patient
28 reports, but must disclose the report to the hospital and the
29 hospital's staffing committee. In disclosing the report, the
30 department shall not reveal identifying information about the patient.

31 (c) Information about complaints or reports under this subsection
32 that does not warrant an investigation may not be disclosed except that
33 the department must notify the hospital and the complainant when a
34 complaint did not warrant an investigation.

35 **Sec. 3.** RCW 70.56.020 and 2006 c 8 s 106 are each amended to read
36 as follows:

37 (1) The legislature intends to establish an adverse health events

1 and incident reporting system that is designed to facilitate quality
2 improvement in the health care system, improve patient safety and
3 decrease medical errors in a nonpunitive manner. The reporting system
4 shall not be designed to punish errors by health care practitioners or
5 health care facility employees.

6 (2) Each medical facility shall notify the department of health
7 regarding the occurrence of any adverse event and file a subsequent
8 report as provided in this section. Notification must be submitted to
9 the department within forty-eight hours of confirmation by the medical
10 facility that an adverse event has occurred. A subsequent report must
11 be submitted to the department within forty-five days after
12 confirmation by the medical facility that an adverse event has
13 occurred. The notification and report shall be submitted to the
14 department using the internet-based system established under RCW
15 70.56.040(2).

16 (3) The notification and report shall be filed in a format
17 specified by the department after consultation with medical facilities
18 and the independent entity. The format shall identify the facility,
19 but shall not include any identifying information for any of the health
20 care professionals, facility employees, or patients involved. This
21 provision does not modify the duty of a hospital to make a report to
22 the department of health or a disciplinary authority if a licensed
23 practitioner has committed unprofessional conduct as defined in RCW
24 18.130.180. As soon as possible, but no later than July 1, 2008,
25 hospitals shall revise their incident reporting procedures to include
26 an evaluation of staffing as part of the incident review process.
27 Hospitals shall also modify their incident form to include an area for
28 the documentation of staffing considerations.

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

31 (i) Include the following information:

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

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

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

5 (ii) Conduct a root cause analysis of the event, describe the
6 corrective action plan that will be implemented consistent with the
7 findings of the analysis, or provide an explanation of any reasons for
8 not taking corrective action. Hospitals shall consider staffing as a
9 possible factor contributing to reportable incidents. Staffing
10 considerations may include such factors as fatigue, training,
11 communication, and adequacy.

12 (b) The department shall adopt rules, in consultation with medical
13 facilities and the independent entity, related to the form and content
14 of the root cause analysis and corrective action plan. In developing
15 the rules, consideration shall be given to existing standards for root
16 cause analysis or corrective action plans adopted by the joint
17 commission on accreditation of health facilities and other national or
18 governmental entities.

19 (c) For purposes of this subsection (4), "nursing personnel" and
20 "patient care unit" have the same meaning as defined in section 2 of
21 this act.

22 (5) If, in the course of investigating a complaint received from an
23 employee of a medical facility, the department determines that the
24 facility has not reported an adverse event or undertaken efforts to
25 investigate the occurrence of an adverse event, the department shall
26 direct the facility to report or to undertake an investigation of the
27 event.

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

31 **Sec. 4.** RCW 18.79.202 and 2005 c 268 s 4 are each amended to read
32 as follows:

33 (1) In addition to the licensing fee for registered nurses and
34 licensed practical nurses licensed under this chapter, the department
35 shall impose an additional surcharge of five dollars per year on all
36 initial licenses and renewal licenses for registered nurses and

1 licensed practical nurses issued under this chapter. Advanced
2 registered nurse practitioners are only required to pay the surcharge
3 on their registered nurse licenses.

4 (2) The department, in consultation with the commission and the
5 workforce training and education coordinating board, shall use the
6 proceeds from the surcharge imposed under subsection (1) of this
7 section to provide grants to a central nursing resource center. The
8 grants may be awarded only to a not-for-profit central nursing resource
9 center that is comprised of and led by nurses. The central nursing
10 resource center will demonstrate coordination with relevant nursing
11 constituents including professional nursing organizations, groups
12 representing nursing educators, staff nurses, nurse managers or
13 executives, and labor organizations representing nurses. The central
14 nursing resource center shall have as its mission to contribute to the
15 health and wellness of Washington state residents by ensuring that
16 there is an adequate nursing workforce to meet the current and future
17 health care needs of the citizens of the state of Washington. The
18 grants may be used to fund the following activities of the central
19 nursing resource center:

20 (a) Maintain information on the current and projected supply and
21 demand of nurses through the collection and analysis of data regarding
22 the nursing workforce, including but not limited to education level,
23 race and ethnicity, employment settings, nursing positions, reasons for
24 leaving the nursing profession, and those leaving Washington state to
25 practice elsewhere. This data collection and analysis must complement
26 other state activities to produce data on the nursing workforce and the
27 central nursing resource center shall work collaboratively with other
28 entities in the data collection to ensure coordination and avoid
29 duplication of efforts;

30 (b) Monitor and validate trends in the applicant pool for programs
31 in nursing. The central nursing resource center must work with nursing
32 leaders to identify approaches to address issues arising related to the
33 trends identified, and collect information on other states' approaches
34 to addressing these issues;

35 (c) Facilitate partnerships between the nursing community and other
36 health care providers, licensing authority, business and industry,
37 consumers, legislators, and educators to achieve policy consensus,

1 promote diversity within the profession, and enhance nursing career
2 mobility and nursing leadership development;

3 (d) Evaluate the effectiveness of nursing education and
4 articulation among programs to increase access to nursing education and
5 enhance career mobility, especially for populations that are
6 underrepresented in the nursing profession;

7 (e) Provide consultation, technical assistance, data, and
8 information related to Washington state and national nursing resources;

9 (f) Promote strategies to enhance patient safety and quality
10 patient care, including encouraging a safe and healthy workplace
11 environment for nurses and making recommendations pursuant to section
12 2 of this act; and

13 (g) Educate the public including students in K-12 about
14 opportunities and careers in nursing.

15 (3) The nursing resource center account is created in the custody
16 of the state treasurer. All receipts from the surcharge in subsection
17 (1) of this section must be deposited in the account. Expenditures
18 from the account may be used only for grants to an organization to
19 conduct the specific activities listed in subsection (2) of this
20 section and to compensate the department for the reasonable costs
21 associated with the collection and distribution of the surcharge and
22 the administration of the grant provided for in subsection (2) of this
23 section. No money from this account may be used by the recipient
24 towards administrative costs of the central nursing resource center not
25 associated with the specific activities listed in subsection (2) of
26 this section. No money from this account may be used by the recipient
27 toward lobbying. Only the secretary or the secretary's designee may
28 authorize expenditures from the account. The account is subject to
29 allotment procedures under chapter 43.88 RCW, but an appropriation is
30 not required for expenditures. Grants will be awarded on an annual
31 basis and funds will be distributed quarterly. The first distribution
32 after awarding the first grant shall be made no later than six months
33 after July 24, 2005. The central nursing resource center shall report
34 to the department on meeting the grant objectives annually.

35 (4) The central nursing resource center shall submit a report of
36 all progress, collaboration with other organizations and government
37 entities, and activities conducted by the center to the relevant
38 committees of the legislature by November 30, 2011. The department

1 shall conduct a review of the program to collect funds to support the
2 activities of a nursing resource center and make recommendations on the
3 effectiveness of the program and whether it should continue. The
4 review shall be paid for with funds from the nursing resource center
5 account. The review must be completed by June 30, 2012.

6 (5) The department may adopt rules as necessary to implement
7 chapter 268, Laws of 2005.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 71.12 RCW
9 to read as follows:

10 Establishments licensed under this chapter shall establish a
11 staffing committee and implement a staffing plan as required under
12 section 2 of this act.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.23 RCW
14 to read as follows:

15 State hospitals shall establish a staffing committee and implement
16 a staffing plan as required under section 2 of this act.

17 NEW SECTION. **Sec. 7.** Section 4 of this act expires June 30, 2013.

18 NEW SECTION. **Sec. 8.** This act may be known and cited as the
19 Washington state patient safety act."

EFFECT: Requires the recommendations related to hospital staffing
plans to be developed by June 1, 2008, instead of February 1, 2008, and
also delays the timelines for publishing final recommendations and
implementing staffing plans for four months.

Requires the recommendations to be developed by a task force
convened by the Central Nursing Resource Center (CNRC), and requires
the task force to include members from organizations representing
hospitals, including rural hospitals. Changes the patient assignment
recommendation to "standards" rather than "limits." Adds a specific
requirement for the recommendations to be evidence-based.

Requires the CNRC to forward the recommendations to the Department
of Health, and the task force to review and update the recommendations
biennially.

Clarifies that the final recommendations are to be published, but
not adopted as rules, by the Department of Health.

Deletes the civil penalties for violations of the staffing plan requirements and, instead, requires the DOH to investigate complaints by hospital staff and attempt to resolve the violation. If not resolved, the DOH must make findings and post them along with ratings of staffing plans. The DOH must maintain a toll-free phone number for patients to report violations, and such reports must be disclosed to the hospital and its staffing committee.

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