

# SENATE BILL REPORT

## ESHB 1809

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As of March 27, 2007

**Title:** An act relating to the Washington state patient safety act.

**Brief Description:** Creating the Washington state patient safety act.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Campbell, Green, Kenney, Cody, Darneille, Hunt, Conway, Williams, Simpson, Moeller, Santos and Wood).

**Brief History:** Passed House: 3/13/07, 70-25.

**Committee Activity:** Health & Long-Term Care: 3/27/07.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Edith Rice (786-7444)

**Background:** Acute care hospitals are licensed and regulated by the Department of Health (DOH). These hospitals provide continuous accommodations, facilities, and services to patients requiring observation, diagnosis, or care over a period of at least 24 hours. They serve patients who may require surgery and interventional services, obstetrical and nursery services, emergency care units or services, critical care units or services, cardiology services, pediatric care services, rehabilitation units, oncology services, and laboratory services.

Among other things, the DOH rules require acute care hospitals to ensure that qualified and competent staff are available to operate each department. In making its staffing decisions, a hospital is not permitted to require overtime work for licensed practical nurses and registered nurses that work for an hourly wage, except in limited circumstances. One of these exceptions applies if the hospital documents that it made reasonable efforts to obtain staffing. However, a hospital has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages.

Private psychiatric hospitals, which are licensed under a separate statute, are places that care for the mentally ill, mentally incompetent persons, or chemically dependent persons. These hospitals are also subject to the nurse mandatory overtime work restrictions.

State hospitals, which are Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center, are operated and maintained by the state for the care of the mentally ill. State hospitals are not licensed by the DOH and are not subject to the nurse mandatory overtime work restrictions.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under the health care liability reform legislation enacted in 2006, acute care hospitals, psychiatric hospitals, and other specific medical facilities are required to report to the DOH certain adverse events and incidents occurring in the facility. These adverse events are those listed by the National Quality Forum in 2002 and, among other events, include patient deaths under specific conditions, various surgical errors, and sexual assault of patients.

**Summary of Engrossed Substitute Bill:** Acute care hospitals, psychiatric hospitals, and the state hospitals are required to implement nurse staffing plans that are developed by the hospital's staffing committee, considering recommendations on patient assignment standards published by the DOH.

Recommendations on Staffing Standards: By June 1, 2008, the Central Nursing Resource Center (Center) must forward to the DOH recommendations on patient assignment standards and other issues related to developing and implementing hospital staffing plans. The recommendations must be evidence-based and must be developed by a task force convened by the Center that includes representatives of hospital organizations, including rural hospitals. In making its recommendations the task force must consider current research and authoritative reports and guidelines, legislation considered or adopted in other states, the need presented by patients in various patient care units, and the availability of support staff. The task force's recommendations must be posted on the DOH's website for a 30-day comment period.

By July 15, 2008, the DOH must publish final recommendations on patient assignment standards, to be posted on its website, and provide the recommendations to the hospitals.

The Center will convene a task force to review and update the recommendations biennially.

Staffing Plans: By January 1, 2008, hospitals must establish a staffing committee to develop staffing plans. At least half of the members must be registered nurses providing direct patient care.

By January 1, 2009, hospitals must implement a staffing plan that: (1) sets the minimum number and skill mix of nursing personnel required on shifts in each patient care unit, considering the final patient assignment standards recommendations, and, if it sets a standard lower than the recommendations, includes a written explanation; (2) considers various additional criteria, including census, patient intensity on the shift, and the architecture of the patient care unit; (3) includes limits on the use of agency/traveling nurses; (4) is consistent with the scope of practices of nursing personnel; (5) includes adequate coverage for leave and work breaks; and (6) has at least a semiannual review process. The plans must be updated annually.

The staffing plan and staffing levels must be readily available to patients and visitors. Plan adjustments may be made only if a registered nurse providing direct patient care makes the assessment.

The hospitals must have a process for staff to report staffing concerns, and the DOH must review those reports along with the staffing plan every 18 months in conjunction with hospital licensing surveys.

Reports on Staffing Plans: The DOH, in collaboration with the Washington State Quality Forum (WSQF), must develop standards for comparing hospital staffing plans and post ratings and other information about staffing on the WSQF's website.

Hospitals must collect specified information regarding nurse staffing and submit it to the DOH twice yearly. Information required in the reports includes the skill mix of nursing staff, information about death among surgical inpatients, prevalence of urinary tract infections and hospital-acquired infections, incidence of patient falls, and other patient care measures. The DOH must post this information along with the ratings of staffing plans.

When a medical facility reports an adverse health event, the report must include information on the number of patients and nursing personnel in the area and other information about staffing at the time of the event being reported. Hospitals must consider staffing issues as a factor when reporting adverse health events and incidents.

Compliants: The DOH must investigate complaints by hospital staff of violations related to the required staffing plans and attempt to resolve violations. 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 must disclose the reports to hospital and staffing committee.

Hospitals may not retaliate against an employee, patient, or other person for certain activities related to implementing hospital staffing plans..

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This isn't a ratio bill; it's a nurse retention bill. We are in a crisis since many nurses are quitting their jobs as a result of job dissatisfaction. This is a safety bill for the public. Nursing workloads have increased and patients are sicker. This creates unsafe situations for patients and staff. The public has a right to know about hospital staffing. Nurses want the ability to provide input about work situations. Nurses typically last two to five years and then quit. Nursing is stressful. Staffing should be based on specific needs of the hospital and unit.

CON: This bill will thwart our quality improvement efforts; it won't help us. The issues are far more complex. Staffing shouldn't be considered by itself. This bill is too prescriptive; it needs a system wide approach. We have serious legal concerns about public hospital district commissioners' authority being usurped, and meeting Medicare Medicaid requirements. This is really about staffing ratios. There is no current evidence that care is substandard. This bill doesn't recognize issues of patient safety.

**Persons Testifying:** PRO: Representative Morrell, prime sponsor; Representative Green; Kim Armstrong, Dawn Cutler, Ann Tan Piazza, Kara Thompkins, Washington State Nurses Association; Kathy Sweeney, Jan Bell, Joann Metropolis, SEIU 1199 NW.

CON: Barbara Ringhouse, Island Hospital; Patti Crome, Virginia Mason Hospital; Craig Wilson, Kittitas Valley Community Hospital; Barbara Shicklich, Riddell Williams, Cindy Mayo, Providence Hospital; Jeannie Matthews, Enumclaw Hospital, Thom Hightower, Grays Harbor Community Hospital.