
ENGROSSED SUBSTITUTE HOUSE BILL 1809

State of Washington

60th Legislature

2007 Regular Session

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

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the Washington state patient safety act;
2 amending RCW 70.56.020 and 18.79.202; adding a new section to chapter
3 70.41 RCW; adding a new section to chapter 71.12 RCW; adding a new
4 section to chapter 72.23 RCW; creating new sections; and providing an
5 expiration date.

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

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

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

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

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

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

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

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

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

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

10 (a) "Central nursing resource center" means the center established
11 in RCW 18.79.202.

12 (b) "Hospital" has the same meaning as defined in RCW 70.41.020,
13 except that "hospital" also includes the state hospitals as defined in
14 RCW 72.23.010 and the psychiatric hospitals licensed under chapter
15 71.12 RCW.

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

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

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

22 (iii) Scheduled or anticipated procedures or events, including
23 those that necessitate increased frequency of assessment or
24 intervention;

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

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

29 (vi) Level of patient adherence or ability to comply with patient
30 care;

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

33 (viii) Intactness of family unit, the availability of family to
34 provide either emotional support or functional support, or both, and
35 the ability of the family to participate in patient decision-making
36 processes;

37 (ix) Communications skills of the patient; and

1 (x) Other needs identified by the patient and by the registered
2 nurse.

3 (d) "Nursing personnel" means registered nurses, licensed practical
4 nurses, and unlicensed assistive nursing personnel providing direct
5 patient care.

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

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

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

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

16 (2) HOSPITAL STAFFING COMMITTEES. (a) By January 1, 2008, each
17 hospital shall establish a staffing committee. At least one-half of
18 the staffing committee members must be registered nurses currently
19 providing direct patient care, unless another ratio of registered nurse
20 members is required to be consistent with an applicable provision of a
21 collective bargaining agreement between the hospital and its nursing
22 staff. If registered nurses are represented by a collective bargaining
23 representative, the committee's direct patient care registered nurse
24 members must be selected by that collective bargaining representative.

25 (b) Participation in the staffing committee by a hospital employee
26 shall be considered a part of the employee's regularly scheduled
27 workweek.

28 (3) PATIENT ASSIGNMENT STANDARDS RECOMMENDATION. (a) By June 1,
29 2008, the central nursing resource center must forward recommendations
30 to the department as required in this subsection. The recommendations
31 must be evidence-based and must be developed by a task force convened
32 by the central nursing resource center. Among its members, the task
33 force must include representatives of organizations that represent
34 hospitals, including rural hospitals. The recommendations must
35 address:

- 36 (i) Patient assignment standards in hospitals; and
- 37 (ii) The development and implementation of hospital staffing plans,
38 as the secretary may request.

1 (b) In developing its recommendations, the task force must
2 consider:

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

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

9 (iii) Guidelines adopted or published by national nursing
10 professional associations, specialty nursing organizations, and other
11 health professional organizations;

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

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

16 (vi) Availability of health care professional, technical, and
17 support staff whose skills and services are essential to delivering
18 quality patient care.

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

24 (d) On a biennial basis, a task force convened by the central
25 nursing resource center pursuant to (a) of this subsection must review
26 the considerations listed in (b) of this subsection and determine
27 whether the final recommendations published under this subsection
28 should be updated. New recommendations, if any, developed by the task
29 force and forwarded to the department by the central nursing resource
30 center must be posted for public comment as provided in (c) of this
31 subsection, and the department must publish final recommendations
32 within forty-five days of posting the central nursing resource center's
33 recommendations.

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

1 (ii) In establishing staffing levels for the staffing plan, the
2 staffing committee must consider the patient assignment standards
3 recommended in the final recommendations published under subsection (3)
4 of this section. If the staffing plan adopts staffing levels that
5 provide lower staffing than the final recommendations published under
6 subsection (3) of this section, the staffing plan must include an
7 explanation of the reasons for the deviation.

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

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

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

15 (C) Skill mix;

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

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

19 (F) The architecture and geography of the patient care unit,
20 including but not limited to placement of patient rooms, treatment
21 areas, nursing station, medication preparation areas, and equipment;
22 and

23 (G) Staffing guidelines adopted or published by national nursing
24 professional associations, specialty nursing organizations, and other
25 health professional organizations.

26 (iv) Staffing plans must at a minimum:

27 (A) Include appropriate limits on the use of agency and traveling
28 nurses;

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

32 (C) Include adequate staffing to allow for staff time off,
33 illnesses, meal and break time, and educational, health, and other
34 leaves;

35 (D) Include a process for review by the staffing committee that
36 ensures compliance with the staffing plan, provides for the committee's
37 review of incidents and staff concerns, and tracks staffing patterns,

1 the number of patients and the patients' conditions, and the intensity
2 of the patients' nursing care needs. These reviews must be performed
3 at least semiannually; and

4 (E) Be updated at least annually.

5 (v) The staffing plan must not diminish other standards contained
6 in law, rules, or the terms of an applicable collective bargaining
7 agreement, if any, between the hospital and its nursing staff, and must
8 be consistent with any such agreement.

9 (b) In implementing the staffing plan, each hospital shall:

10 (i) Assign nursing personnel to each patient care unit in
11 accordance with its staffing plan. Shift-to-shift adjustments in
12 staffing levels required by the plan may be made only if based upon
13 assessment by a registered nurse providing direct patient care on the
14 patient care unit, utilizing procedures specified by the staffing
15 committee;

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

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

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

31 (b) In collaboration with Washington state quality forum
32 established in section 5, chapter . . . (House Bill No. 2098), Laws of
33 2007, the department must develop standards for comparing hospital
34 staffing plans, and each hospital's adherence to its staffing plan in
35 practice, with the final recommendations published under subsection (3)
36 of this section. The department must rate the staffing plans according
37 to the standards and provide the ratings to the Washington state
38 quality forum to be disseminated, at a minimum, on its web site as part

1 of its research regarding health care quality, evidence-based medicine,
2 and patient safety. If the Washington state quality forum is not
3 established, the department shall perform the duties required under
4 this section and post the staffing plan information on its web site.

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

12 (i) Death among surgical inpatients with treatable serious
13 complications (failure to rescue);

14 (ii) Prevalence of urinary tract infections;

15 (iii) Hospital-acquired pneumonia;

16 (iv) Incidence of patient falls; and

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

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

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

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

25 (b) An employee, patient, or other individual who notifies the
26 staffing committee, the hospital administration, or the department that
27 any schedule or nursing personnel assignment fails to comply with the
28 staffing plan, or that the hospital has failed to develop or implement
29 a staffing plan.

30 (8) COMPLAINTS. (a) The department must investigate complaints
31 from hospital staff that a hospital has failed to comply with a
32 staffing plan, has failed to develop or implement a staffing plan, or
33 has violated subsection (7) of this section. If there is reasonable
34 cause to believe that a violation has been or is occurring, the
35 department must immediately endeavor to eliminate the violation by
36 conference with the interested parties. If a resolution is not
37 reached, the department must make a finding to that effect. Such

1 findings must be posted along with the ratings of staffing plans as
2 provided in subsection (5)(b) of this section.

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

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

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

15 (1) The legislature intends to establish an adverse health events
16 and incident reporting system that is designed to facilitate quality
17 improvement in the health care system, improve patient safety and
18 decrease medical errors in a nonpunitive manner. The reporting system
19 shall not be designed to punish errors by health care practitioners or
20 health care facility employees.

21 (2) Each medical facility shall notify the department of health
22 regarding the occurrence of any adverse event and file a subsequent
23 report as provided in this section. Notification must be submitted to
24 the department within forty-eight hours of confirmation by the medical
25 facility that an adverse event has occurred. A subsequent report must
26 be submitted to the department within forty-five days after
27 confirmation by the medical facility that an adverse event has
28 occurred. The notification and report shall be submitted to the
29 department using the internet-based system established under RCW
30 70.56.040(2).

31 (3) The notification and report shall be filed in a format
32 specified by the department after consultation with medical facilities
33 and the independent entity. The format shall identify the facility,
34 but shall not include any identifying information for any of the health
35 care professionals, facility employees, or patients involved. This
36 provision does not modify the duty of a hospital to make a report to
37 the department of health or a disciplinary authority if a licensed

1 practitioner has committed unprofessional conduct as defined in RCW
2 18.130.180. As soon as possible, but no later than July 1, 2008,
3 hospitals shall revise their incident reporting procedures to include
4 an evaluation of staffing as part of the incident review process.
5 Hospitals shall also modify their incident form to include an area for
6 the documentation of staffing considerations.

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

9 (i) Include the following information:

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

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

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

20 (ii) Conduct a root cause analysis of the event, describe the
21 corrective action plan that will be implemented consistent with the
22 findings of the analysis, or provide an explanation of any reasons for
23 not taking corrective action. Hospitals shall consider staffing as a
24 possible factor contributing to reportable incidents. Staffing
25 considerations may include such factors as fatigue, training,
26 communication, and adequacy.

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

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

37 (5) If, in the course of investigating a complaint received from an
38 employee of a medical facility, the department determines that the

1 facility has not reported an adverse event or undertaken efforts to
2 investigate the occurrence of an adverse event, the department shall
3 direct the facility to report or to undertake an investigation of the
4 event.

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

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

10 (1) In addition to the licensing fee for registered nurses and
11 licensed practical nurses licensed under this chapter, the department
12 shall impose an additional surcharge of five dollars per year on all
13 initial licenses and renewal licenses for registered nurses and
14 licensed practical nurses issued under this chapter. Advanced
15 registered nurse practitioners are only required to pay the surcharge
16 on their registered nurse licenses.

17 (2) The department, in consultation with the commission and the
18 workforce training and education coordinating board, shall use the
19 proceeds from the surcharge imposed under subsection (1) of this
20 section to provide grants to a central nursing resource center. The
21 grants may be awarded only to a not-for-profit central nursing resource
22 center that is comprised of and led by nurses. The central nursing
23 resource center will demonstrate coordination with relevant nursing
24 constituents including professional nursing organizations, groups
25 representing nursing educators, staff nurses, nurse managers or
26 executives, and labor organizations representing nurses. The central
27 nursing resource center shall have as its mission to contribute to the
28 health and wellness of Washington state residents by ensuring that
29 there is an adequate nursing workforce to meet the current and future
30 health care needs of the citizens of the state of Washington. The
31 grants may be used to fund the following activities of the central
32 nursing resource center:

33 (a) Maintain information on the current and projected supply and
34 demand of nurses through the collection and analysis of data regarding
35 the nursing workforce, including but not limited to education level,
36 race and ethnicity, employment settings, nursing positions, reasons for
37 leaving the nursing profession, and those leaving Washington state to

1 practice elsewhere. This data collection and analysis must complement
2 other state activities to produce data on the nursing workforce and the
3 central nursing resource center shall work collaboratively with other
4 entities in the data collection to ensure coordination and avoid
5 duplication of efforts;

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

11 (c) Facilitate partnerships between the nursing community and other
12 health care providers, licensing authority, business and industry,
13 consumers, legislators, and educators to achieve policy consensus,
14 promote diversity within the profession, and enhance nursing career
15 mobility and nursing leadership development;

16 (d) Evaluate the effectiveness of nursing education and
17 articulation among programs to increase access to nursing education and
18 enhance career mobility, especially for populations that are
19 underrepresented in the nursing profession;

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

22 (f) Promote strategies to enhance patient safety and quality
23 patient care, including encouraging a safe and healthy workplace
24 environment for nurses and making recommendations pursuant to section
25 2 of this act; and

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

28 (3) The nursing resource center account is created in the custody
29 of the state treasurer. All receipts from the surcharge in subsection
30 (1) of this section must be deposited in the account. Expenditures
31 from the account may be used only for grants to an organization to
32 conduct the specific activities listed in subsection (2) of this
33 section and to compensate the department for the reasonable costs
34 associated with the collection and distribution of the surcharge and
35 the administration of the grant provided for in subsection (2) of this
36 section. No money from this account may be used by the recipient
37 towards administrative costs of the central nursing resource center not
38 associated with the specific activities listed in subsection (2) of

1 this section. No money from this account may be used by the recipient
2 toward lobbying. Only the secretary or the secretary's designee may
3 authorize expenditures from the account. The account is subject to
4 allotment procedures under chapter 43.88 RCW, but an appropriation is
5 not required for expenditures. Grants will be awarded on an annual
6 basis and funds will be distributed quarterly. The first distribution
7 after awarding the first grant shall be made no later than six months
8 after July 24, 2005. The central nursing resource center shall report
9 to the department on meeting the grant objectives annually.

10 (4) The central nursing resource center shall submit a report of
11 all progress, collaboration with other organizations and government
12 entities, and activities conducted by the center to the relevant
13 committees of the legislature by November 30, 2011. The department
14 shall conduct a review of the program to collect funds to support the
15 activities of a nursing resource center and make recommendations on the
16 effectiveness of the program and whether it should continue. The
17 review shall be paid for with funds from the nursing resource center
18 account. The review must be completed by June 30, 2012.

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

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

23 Establishments licensed under this chapter shall establish a
24 staffing committee and implement a staffing plan as required under
25 section 2 of this act.

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

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

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

31 NEW SECTION. **Sec. 8.** This act may be known and cited as the
32 Washington state patient safety act.

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