

SENATE BILL REPORT

SB 5344

As of February 18, 2019

Title: An act relating to nursing fatigue.

Brief Description: Concerning nursing fatigue.

Sponsors: Senators Cleveland, O'Ban, Hobbs, Takko, Mullet, Palumbo, Rivers, Wellman and Hunt.

Brief History:

Committee Activity: Health & Long Term Care: 2/15/19.

Brief Summary of Bill

- Requires nurse staffing plans to include a regular review of data on missed meal and rest breaks and nurse call-back rates.
- Requires the Department of Health to investigate substantiated complaints a hospital failed to respond to a pattern of missed meal and rest breaks.
- Limits registered nurses to a cumulative 60 hours of direct clinical nursing care work per week.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: Hospitals are required to establish nurse staffing committees to develop and oversee an annual patient care unit and shift-based nurse staffing plan; conduct a semi-annual review of the nurse staffing plan; and review, assess, and respond to staffing concerns. Nurse staffing plans must consider such factors as:

- patient census, including total patients by unit and shift;
- level of intensity of patients and the nature of the care to be delivered on each shift;
- skill mix;
- level of experience of nurses providing care;
- the need for specialized or intensive equipment;
- the physical design of the patient care unit;

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- staffing guidelines adopted by national nursing associations, specialty associations, and other health professional associations;
- the availability of other personnel supporting nursing services on the unit; and
- strategies to enable nurses to take meal and rest breaks.

Hospitals are required to implement the nurse staffing plan, and assign nursing personnel in accordance with the plan. Nurses may report personnel assignments that are not in accordance with the nurse staffing plan to the nurse staffing committee. The Department of Health (DOH) must investigate complaints of a failure to form a nurse staffing committee; conduct a semi-annual review of the nurse staffing plan; submit a nurse staffing plan on an annual basis; or follow the nurse staffing plan's personnel assignments.

Registered nurses who work on an hourly basis in acute care hospitals cannot be required to work overtime in excess of the established schedules or agreed-upon work week.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Nurse staffing plans must include a regular review of aggregate data on missed meal and rest breaks and a regular review of call-back rates for nurses activated and called in to work during prescheduled on-call shifts.

A registered nurse may report to the nurse staffing committee instances of missed meal and rest breaks. Nurse staffing committees must develop a process to examine and respond to data submitted by registered nurses.

After determining that evidence indicates a continuing pattern of unresolved violations and was not caused by an unforeseeable emergency, DOH must investigate complaints of a hospital's failure to collect and review aggregate data on meal and rest breaks or appropriately respond to complaints regarding a pattern of missed meal and rest breaks.

A registered nurse may not perform direct clinical nursing care for compensation for more than a cumulative 60 hours per week across all health care settings where they are employed, except in the event of an unforeseeable emergency circumstance or if the work is performed by a nurse who is employed as a flight nurse. An unforeseeable emergency circumstance is an unforeseen national, state, or municipal emergency; any time a hospital disaster plan is activated; or any unforeseen disaster that substantially affects the need for health care services.

A registered nurse must attest at the time of licensure and license renewal that they will not work more than a cumulative 60 hours per week providing direct clinical nursing care except in emergency circumstances.

If an employee of a health care facility is on prescheduled on-call and is activated and working a shift immediately before or after a regularly scheduled 12-hour shift, the health care facility must use reasonable efforts to find a replacement for the employee if the employee indicates the employee is fatigued and needs to be replaced.

Appropriation: None.

Fiscal Note: Requested on February 14, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2020.

Staff Summary of Public Testimony on Proposed Substitute: PRO: The foundation of the bill is based on current law requiring hospitals to form nurse staffing committees. The bill strengthens the authority of the committee by providing a complaint process for missed meal and rest breaks. The bill allows for flexibility on the hospital level to address meal and rest breaks in a way that works for that hospital. The bill is a balanced approach and the changes are necessary for patient safety and safety of the nurses.

CON: Fatigue occurs on a day to day basis, and a nurse working more than a 12-hour shift is more prone to make mistakes. Breaks should be uninterrupted. The bill fails to hold hospitals accountable for missed breaks and does not address fatigue and rest breaks for hospital employees.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Cassie Sauer, CEO, Washington State Hospital Association; Ian Corbridge, Director, Safety and Quality, Washington State Hospital Association; Barb James, Director, Women's and Children's Services, PeaceHealth Southwest Medical; Laura Hutchison, Staff Nurse, PeaceHealth Southwest Medical Center; Tracey Kasnic, Chief Nursing Officer, Confluence, Central Washington Hospital; Lisa Thatcher, Washington State Hospital Association.

CON: Wes McMahan, Registered Nurse; Bret Percival, United Food and Commercial Workers 21; Sally Watkins, Washington State Nurses Association; Jane Hopkins, Service Employees International Union Healthcare 1199NW; Dawn Morell, Washington State Nurses Association; Patricia Brown, United Food and Commercial Workers 21; Samantha Grad, United Food and Commercial Workers 21.

Persons Signed In To Testify But Not Testifying: No one.