

2SHB 1868 - H AMD 1008

By Representative Riccelli

ADOPTED AS AMENDED 02/13/2022

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

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that the
4 COVID-19 public health emergency has pushed our health care system to
5 its breaking point. Our nurses and health care workers who directly
6 care for and support patients have continued to provide high-quality
7 care despite the incredible challenges. But it has not been without
8 significant cost. Nurses and health care workers are facing
9 unprecedented levels of stress and job turnover. These concerns
10 existed before the pandemic and have only worsened during this public
11 health emergency. The legislature finds that improving nurse and
12 health care worker safety and working conditions leads to better
13 patient care. Specifically, establishing minimum nurse-to-patient
14 staffing standards, expanding break and overtime laws for certain
15 health care workers and to more health care facilities, and requiring
16 hospitals to create staffing plans, all of which are subject to
17 enforcement and penalties for violations, will better serve patients
18 and our community.

19 **Sec. 2.** RCW 70.41.410 and 2008 c 47 s 2 are each amended to read
20 as follows:

21 The definitions in this section apply throughout this section
22 (~~and~~), RCW 70.41.420 and 70.41.425 (as recodified by this act), and
23 section 7 of this act unless the context clearly requires otherwise.

24 (1) "Department" means the department of labor and industries.

25 (2) "Direct care nursing assistant-certified" means an individual
26 certified under chapter 18.88A RCW who provides direct care to
27 patients.

28 (3) "Direct care registered nurse" means an individual licensed
29 as a nurse under chapter 18.79 RCW who provides direct care to
30 patients.

31 (4) "Hospital" has the same meaning as defined in RCW 70.41.020,
32 and also includes state hospitals as defined in RCW 72.23.010.

1 ~~((2))~~ (5) "Hospital staffing committee" means the committee
2 established by a hospital under RCW 70.41.420 (as recodified by this
3 act).

4 (6) "Intensity" means the level of patient need for nursing care,
5 as determined by the nursing assessment.

6 ~~((3))~~ (7) "Nursing and ancillary health care personnel" means
7 ~~((registered nurses, licensed practical nurses, and unlicensed~~
8 ~~assistive nursing personnel providing direct patient care))~~ a person
9 who is providing direct care or supportive services to patients but
10 is not a physician licensed under chapter 18.71 or 18.57 RCW, a
11 physician's assistant licensed under chapter 18.71A RCW, or an
12 advanced registered nurse practitioner licensed under RCW 18.79.250
13 unless working as a direct care registered nurse.

14 ~~((4) "Nurse staffing committee" means the committee established~~
15 ~~by a hospital under RCW 70.41.420.~~

16 ~~(5))~~ (8) "Patient care unit" means any unit or area of the
17 hospital that provides patient care by registered nurses.

18 ~~((6))~~ (9) "Reasonable efforts" means that the employer exhausts
19 and documents all of the following but is unable to obtain staffing
20 coverage:

21 (a) Seeks individuals to volunteer to work extra time from all
22 available qualified staff who are working;

23 (b) Contacts qualified employees who have made themselves
24 available to work extra time;

25 (c) Seeks the use of per diem staff; and

26 (d) Seeks personnel from a contracted temporary agency when such
27 staffing is permitted by law or an applicable collective bargaining
28 agreement, and when the employer regularly uses a contracted
29 temporary agency.

30 (10) "Skill mix" means the experience of, and number and relative
31 percentages of ~~((registered nurses, licensed practical nurses, and~~
32 ~~unlicensed assistive personnel among the total number of nursing~~
33 ~~personnel)), nursing and ancillary health personnel.~~

34 (11) "Unforeseeable emergent circumstance" means:

35 (a) Any unforeseen national, state, or municipal emergency; or

36 (b) When a hospital disaster plan is activated.

37 NEW SECTION. Sec. 3. (1) The definitions in this subsection
38 apply throughout this section unless the context clearly requires
39 otherwise.

- 1 (a) "Department" means the department of labor and industries.
- 2 (b) "Direct care nursing assistant-certified" means an individual
3 certified under chapter 18.88A RCW who provides direct care to
4 patients.
- 5 (c) "Direct care registered nurse" means an individual licensed
6 as a nurse under chapter 18.79 RCW who provides direct care to
7 patients.
- 8 (d) "Hospital" has the same meaning as defined in RCW 70.41.020.
- 9 (e) "Hospital staffing committee" means the committee established
10 by a hospital under RCW 70.41.420 (as recodified by this act).
- 11 (f) "Patient care unit" means any unit or area of the hospital
12 that provides patient care by registered nurses.
- 13 (2)(a) A hospital shall comply with minimum staffing standards in
14 accordance with this section.
- 15 (b) The department shall enforce compliance with this section
16 under sections 12 through 14 of this act.
- 17 (3) Direct care registered nurses shall not be assigned more
18 patients than the following for any shift:
- 19 (a) Emergency department: One direct care registered nurse to
20 three nontrauma or noncritical care patients and one direct care
21 registered nurse to one trauma or critical care patient;
- 22 (b) Intensive care unit, such as critical care unit, special care
23 unit, coronary care unit, pediatric intensive care, neonatal
24 intensive care, neurological critical care unit, or a burn unit: One
25 direct care registered nurse to two patients or one direct care
26 registered nurse to one patient depending on the stability of the
27 patient as assessed by the direct care registered nurse on the unit;
- 28 (c) Labor and delivery: One direct care registered nurse to two
29 patients and one direct care registered nurse to one patient for
30 active labor and in all stages of labor for any patients with
31 complications;
- 32 (d) Postpartum, antepartum, and well-baby nursery: One direct
33 care registered nurse to six patients in postpartum, antepartum, and
34 well-baby nursery. In this context, the mother and the baby are each
35 counted as separate patients. This would mean, for example, one
36 direct care registered nurse to three mother-baby couplets;
- 37 (e) Operating room: One direct care registered nurse to one
38 patient;
- 39 (f) Oncology: One direct care registered nurse to four patients;

- 1 (g) Postanesthesia care unit: One direct care registered nurse to
2 two patients;
- 3 (h) Progressive care unit, intensive specialty care unit, or
4 stepdown unit: One direct care registered nurse to three patients;
- 5 (i) Medical-surgical unit: One direct care registered nurse to
6 five patients;
- 7 (j) Telemetry unit: One direct care registered nurse to four
8 patients;
- 9 (k) Psychiatric unit: One direct care registered nurse to six
10 patients;
- 11 (l) Pediatrics: One direct care registered nurse to three
12 patients.
- 13 (4) Direct care nursing assistants-certified shall not be
14 assigned more patients than the following for any shift:
- 15 (a) Intensive care unit, such as critical care unit, special care
16 unit, coronary care unit, pediatric intensive care, neonatal
17 intensive care, neurological critical care unit, or a burn unit: One
18 direct care nursing assistant-certified to eight patients;
- 19 (b) Cardiac unit: One direct care nursing assistant-certified to
20 four patients;
- 21 (c) Labor and delivery: One direct care nursing assistant-
22 certified to eight patients and one direct care nursing assistant-
23 certified to four patients for active labor and in all stages of
24 labor for any patients with complications;
- 25 (d) Postanesthesia care unit: One direct care nursing assistant-
26 certified to eight patients;
- 27 (e) Progressive care unit, intensive specialty care unit, or
28 stepdown unit: One direct care nursing assistant-certified to eight
29 patients;
- 30 (f) Medical-surgical unit: One direct care nursing assistant-
31 certified to eight patients;
- 32 (g) Telemetry unit: One direct care nursing assistant-certified
33 to eight patients;
- 34 (h) Psychiatric unit: One direct care nursing assistant-certified
35 to eight patients;
- 36 (i) Pediatrics: One direct care nursing assistant-certified to 13
37 patients;
- 38 (j) Emergency department: One direct care nursing assistant-
39 certified to eight patients;

1 (k) Telesitting unit: One direct care nursing assistant-certified
2 to eight patients.

3 (5) (a) The personnel assignment limits established in this
4 section are based on the type of care provided in these patient care
5 units, regardless of the specific name or reference the hospital
6 calls these units.

7 (b) The personnel assignment limits established in this section
8 represent the maximum number of patients to which a direct care
9 registered nurse or direct care nursing assistant-certified may be
10 assigned at all points during a shift.

11 (c) A hospital may not average the number of patients and the
12 total number of direct care registered nurses and direct care nursing
13 assistants-certified assigned to patients in a unit during any one
14 shift or over any period of time, in order to meet the personnel
15 assignment limits established in this section.

16 (6) Nothing in this section precludes a hospital from assigning
17 fewer patients to a direct care registered nurse or direct care
18 nursing assistant-certified than the limits established in this
19 section.

20 (7) The personnel assignment limits established in this section
21 do not decrease any nurse-to-patient staffing levels:

22 (a) In effect pursuant to a collective bargaining agreement; or

23 (b) Established under a hospital's staffing plan in effect as of
24 January 1, 2022, except with majority vote of the staffing committee.

25 (8) A direct care registered nurse or direct care nursing
26 assistant-certified may not be assigned to a nursing unit or clinical
27 area unless that nurse has first received orientation in that
28 clinical area sufficient to provide competent care to patients in
29 that area and has demonstrated current competence in providing care
30 in that area.

31 (9) (a) Except as provided in (b) of this subsection, a hospital
32 shall develop and implement minimum staffing standards into its
33 staffing plan required under RCW 70.41.420 (as recodified by this
34 act), no later than two years after the effective date of this
35 section.

36 (b) The following hospitals shall develop and implement minimum
37 staffing standards into their staffing plan required under RCW
38 70.41.420 (as recodified by this act) no later than four years after
39 the effective date of this section:

1 (i) Hospitals certified as critical access hospitals under 42
2 U.S.C. Sec. 1395i-4;
3 (ii) Hospitals with fewer than 25 acute care beds in operation;
4 and
5 (iii) Hospitals certified by the centers for medicare and
6 medicaid services as sole community hospitals as of January 1, 2013,
7 that: Have had less than 150 acute care licensed beds in fiscal year
8 2011; have a level III adult trauma service designation from the
9 department of health as of January 1, 2014; and are owned and
10 operated by the state or a political subdivision.

11 NEW SECTION. **Sec. 4.** (1)(a) The department may grant a variance
12 from the minimum staffing standards in section 3 of this act for
13 "good cause."

14 (b) "Good cause" means situations where a hospital can establish
15 that compliance with the minimum staffing standards are infeasible,
16 and that granting a variance does not have a significant harmful
17 effect on the health, safety, and welfare of the involved employees
18 and patients.

19 (2) A hospital, as defined in section 3 of this act, may seek a
20 variance from the minimum staffing standards by submitting a written
21 application to the department. The application must contain the
22 following:

23 (a) A justification for the variance, which establishes good
24 cause for not complying with minimum staffing standards;

25 (b) The alternative minimum staffing standards that will be
26 imposed;

27 (c) The group of employees for whom the variance is sought;

28 (d) Evidence that infeasibility was discussed along with
29 underlying data supporting the claim of infeasibility at least twice
30 by the hospital staffing committee and a statement from the staffing
31 committee where consensus exists or statements where there is
32 dispute; and

33 (e) Evidence that the hospital provided to the involved employees
34 and, if applicable, to their union representatives, the following:

35 (i) A copy of the written request for a variance;

36 (ii) Information about the right of the involved employees and,
37 if applicable, their union representatives, to be heard by the
38 department during the variance application review process;

1 (iii) Information about the process by which involved employees
2 and, if applicable, their union representatives, may make a written
3 request to the director for reconsideration, subject to the
4 provisions established in subsection (7) of this section; and

5 (iv) The department's address and phone number, or other contact
6 information.

7 (3) The department must allow the hospital, any involved
8 employees and, if applicable, their union representatives, the
9 opportunity for oral or written presentation during the variance
10 application review process whenever circumstances of the particular
11 application warrant it.

12 (4) No later than 60 days after the date on which the department
13 received the application for a variance, the department must issue a
14 written decision either granting or denying the variance. The
15 department may extend the 60-day time period by providing advance
16 written notice to the hospital and, if applicable, the union
17 representatives of any involved employees, setting forth a reasonable
18 justification for an extension of the 60-day time period, and
19 specifying the duration of the extension. The hospital must provide
20 involved employees with notice about any such extension.

21 (5) Variances shall be granted if the department determines that
22 there is good cause for allowing a hospital to not comply with the
23 minimum staffing standards in section 3 of this act. The variance
24 order shall state the following:

25 (a) The alternative minimum staffing standards approved in the
26 variance;

27 (b) The basis for a finding of good cause;

28 (c) The group of employees impacted; and

29 (d) The period of time for which the variance will be valid, not
30 to exceed five years from the date of issuance.

31 (6) Upon making a determination for issuance of a variance, the
32 department must provide notification in writing to the hospital and,
33 if applicable, the union representatives of any involved employees.
34 If the variance is denied, the written notification must include a
35 stated basis for the denial.

36 (7) A hospital, involved employee and, if applicable, their union
37 representative, may file with the director a request for
38 reconsideration within 15 days after receiving notice of the variance
39 determination. The request for reconsideration must set forth the
40 grounds upon which the reconsideration is being made. If reasonable

1 grounds exist, the director may grant such review and, to the extent
2 deemed appropriate, afford all interested parties an opportunity to
3 be heard. If the director grants such review, the written decision of
4 the department will remain in place until the reconsideration process
5 is complete.

6 (8) Unless subject to the reconsideration process, the director
7 may revoke or terminate the variance order at any time after giving
8 the hospital at least 30 days' notice before revoking or terminating
9 the order.

10 (9) Where immediate action is necessary pending further review by
11 the department, the department may issue a temporary variance. The
12 temporary variance will remain valid until the department determines
13 whether good cause exists for issuing a variance. A hospital need not
14 meet the requirement in subsection (2)(d) of this section in order to
15 be granted a temporary variance.

16 (10) If a hospital obtains a variance under this section, the
17 hospital must provide the involved employees with information about
18 the minimum staffing standards that apply within 15 days of receiving
19 notification of such approval from the department. A hospital must
20 make this information readily available to all employees.

21 (11) Variances under this section may be renewed.

22 (12) The director may adopt rules to establish additional
23 variance eligibility criteria.

24 **Sec. 5.** RCW 70.41.420 and 2017 c 249 s 2 are each amended to
25 read as follows:

26 (1) By September 1, ~~((2008))~~ 2023, each hospital shall establish
27 a ~~((nurse))~~ hospital staffing committee, either by creating a new
28 committee or assigning the functions of ~~((a))~~ an existing nurse
29 staffing committee to ~~((an-existing))~~ a hospital staffing committee.

30 (a) At least ~~((one-half))~~ 50 percent of the members of the
31 ~~((nurse))~~ hospital staffing committee shall be ~~((registered-nurses))~~
32 nursing and ancillary health care personnel, who are nonsupervisory
33 and nonmanagerial, currently providing direct patient care ~~((and up~~
34 ~~to one-half of the members shall be determined by the hospital~~
35 ~~administration))~~. The selection of the ~~((registered-nurses providing~~
36 ~~direct patient care))~~ nursing and ancillary health care personnel
37 shall be according to the collective bargaining ~~((agreement))~~
38 representative or representatives if there is one ~~((in-effect))~~ or
39 more at the hospital. If there is no ~~((applicable))~~ collective

1 bargaining (~~agreement~~) representative, the members of the (~~nurse~~)
2 hospital staffing committee who are (~~registered nurses~~) nursing and
3 ancillary health care personnel providing direct patient care shall
4 be selected by their peers.

5 (b) Up to 50 percent of the members of the hospital staffing
6 committee shall be determined by the hospital administration and
7 shall include but not be limited to the chief financial officer, the
8 chief nursing officers, and patient care unit directors or managers
9 or their designees.

10 (2) Participation in the (~~nurse~~) hospital staffing committee by
11 a hospital employee shall be on scheduled work time and compensated
12 at the appropriate rate of pay. (~~Nurse~~) Hospital staffing committee
13 members shall be relieved of all other work duties during meetings of
14 the committee. Additional staffing relief must be provided if
15 necessary to ensure committee members are able to attend hospital
16 staffing committee meetings.

17 (3) Primary responsibilities of the (~~nurse~~) hospital staffing
18 committee shall include:

19 (a) Development and oversight of an annual patient care unit and
20 shift-based (~~nurse~~) staffing plan, in compliance with the standards
21 established in section 3 of this act and based on the needs of
22 patients, to be used as the primary component of the staffing budget.
23 The hospital staffing committee shall use a uniform format or form,
24 created by the department, in consultation with stakeholders from
25 hospitals and labor organizations, for complying with the requirement
26 to submit the annual staffing plan. The uniform format or form must
27 provide space to include the factors considered under this section
28 and allow patients and the public to clearly understand and compare
29 staffing patterns and actual levels of staffing across facilities.
30 Hospitals may include a description of additional resources available
31 to support unit-level patient care and a description of the hospital,
32 including the size and type of facility. Factors to be considered in
33 the development of the plan should include, but are not limited to:

34 (i) Census, including total numbers of patients on the unit on
35 each shift and activity such as patient discharges, admissions, and
36 transfers;

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

39 (iii) Skill mix;

1 (iv) Level of experience and specialty certification or training
2 of nursing personnel providing care;

3 (v) The need for specialized or intensive equipment;

4 (vi) The architecture and geography of the patient care unit,
5 including but not limited to placement of patient rooms, treatment
6 areas, nursing stations, medication preparation areas, and equipment;

7 ~~(vii) ((Staffing guidelines adopted or published by national
8 nursing professional associations, specialty nursing organizations,
9 and other health professional organizations;~~

10 ~~(viii))~~ Availability of other personnel supporting nursing
11 services on the unit; and

12 ~~((ix) Strategies to enable registered nurses to take meal and
13 rest breaks as required by law or))~~ (viii) Ability to comply with the
14 terms of an applicable collective bargaining agreement, if any,
15 ((between the hospital and a representative of the nursing staff))
16 and relevant state and federal laws and rules, including those
17 regarding meal and rest breaks and use of overtime and on-call
18 shifts;

19 (b) Semiannual review of the staffing plan against the ability to
20 meet staffing standards established under section 3 of this act,
21 patient need, and known evidence-based staffing information,
22 including the nursing sensitive quality indicators collected by the
23 hospital;

24 (c) Review, assessment, and response to staffing variations or
25 ~~((concerns))~~ complaints presented to the committee.

26 (4) In addition to the factors listed in subsection (3)(a) of
27 this section, hospital finances and resources must be taken into
28 account in the development of the ~~((nurse))~~ staffing plan.

29 (5) The staffing plan must not diminish other standards contained
30 in state or federal law and rules, or the terms of an applicable
31 collective bargaining agreement ~~((, if any, between the hospital and a
32 representative of the nursing staff))~~.

33 (6) (a) The committee ~~((will))~~ shall produce the hospital's annual
34 ~~((nurse))~~ staffing plan. If this staffing plan is not adopted by
35 consensus of the hospital ~~((, the))~~ staffing committee, the prior
36 annual staffing plan remains in effect and the hospital is subject to
37 daily fines of \$5,000 for hospitals licensed under chapter 70.41 RCW
38 or daily fines of \$100 for: (i) Hospitals certified as critical
39 access hospitals; (ii) hospitals with fewer than 25 acute care beds
40 in operation; and (iii) hospitals certified by the centers for

1 medicare and medicaid services as sole community hospitals as of
2 January 1, 2013, that: Have had less than 150 acute care licensed
3 beds in fiscal year 2011; have a level III adult trauma service
4 designation from the department of health as of January 1, 2014; and
5 are owned and operated by the state or a political subdivision until
6 adoption of a new annual staffing plan by consensus of the committee.

7 (b) The chief executive officer shall provide ((a—written
8 explanation of the reasons why the plan was not adopted to the
9 committee)) feedback to the hospital staffing committee on a
10 semiannual basis, prior to the committee's semiannual review and
11 adoption of an annual staffing plan. The ((chief executive officer))
12 feedback must ((then either)): ((-a-)) (i) Identify those elements of
13 the ((proposed plan being changed prior to adoption of the plan by
14 the hospital or (b) prepare an alternate annual staffing plan that
15 must be adopted by the hospital)) staffing plan the chief executive
16 officer requests changes to; or (ii) provide a status report on
17 implementation of the staffing plan including nursing sensitive
18 quality indicators collected by the hospital, patient surveys, and
19 recruitment and retention efforts.

20 (c) Beginning ((January 1, 2019)) July 1, 2024, each hospital
21 shall submit its staffing plan to the department and thereafter on an
22 annual basis and at any time in between that the plan is updated.

23 (7) Beginning ((January 1, 2019)) July 1, 2024, each hospital
24 shall implement the staffing plan and assign nursing personnel to
25 each patient care unit in accordance with the plan.

26 (a) A registered nurse, ancillary health care personnel,
27 collective bargaining representative, patient, or other individual
28 may report to the staffing committee any variations where the
29 ((nurse)) personnel assignment in a patient care unit is not in
30 accordance with the adopted staffing plan and may make a complaint to
31 the committee based on the variations.

32 (b) Shift-to-shift adjustments in staffing levels required by the
33 plan may be made by the appropriate hospital personnel overseeing
34 patient care operations. If a registered nurse or nursing assistant-
35 certified on a patient care unit objects to a shift-to-shift
36 adjustment, the registered nurse or nursing assistant-certified may
37 submit the complaint to the staffing committee.

38 (c) Staffing committees shall develop a process to examine and
39 respond to data submitted under (a) and (b) of this subsection,
40 including the ability to determine if a specific complaint is

1 resolved or dismissing a complaint based on unsubstantiated data. All
2 complaints submitted to the hospital staffing committee must be
3 reviewed, regardless of what format the complainant uses to submit
4 the complaint.

5 (8) Each hospital shall post, in a public area on each patient
6 care unit, the ((nurse)) staffing plan and the ((nurse)) staffing
7 schedule for that shift on that unit, as well as the relevant
8 clinical staffing for that shift. The staffing plan and current
9 staffing levels must also be made available to patients and visitors
10 upon request.

11 (9) A hospital may not retaliate against or engage in any form of
12 intimidation of:

13 (a) An employee for performing any duties or responsibilities in
14 connection with the ((nurse)) staffing committee; or

15 (b) An employee, patient, or other individual who notifies the
16 ((nurse)) staffing committee or the hospital administration of his or
17 her concerns on nurse or ancillary health care personnel staffing.

18 (10) This section is not intended to create unreasonable burdens
19 on critical access hospitals under 42 U.S.C. Sec. 1395i-4. Critical
20 access hospitals may develop flexible approaches to accomplish the
21 requirements of this section that may include but are not limited to
22 having ((nurse)) hospital staffing committees work by video
23 conference, telephone, or email.

24 (11) The hospital staffing committee shall file with the
25 department a charter that must include, but is not limited to:

26 (a) Roles, responsibilities, and processes by which the hospital
27 staffing committee functions, including processes to ensure adequate
28 quorum and ability of committee members to attend;

29 (b) Schedule for monthly meetings with more frequent meetings as
30 needed that ensures committee members have 30-days notice of
31 meetings;

32 (c) Processes by which all staffing complaints will be reviewed,
33 noting the date received as well as initial, contingent, and final
34 disposition of complaints and corrective action plan where
35 applicable;

36 (d) Processes by which complaints will be resolved within 90 days
37 of receipt, or longer with majority approval of the committee, and
38 processes to ensure the complainant receives a letter stating the
39 outcome of the complaint;

1 (e) Processes for attendance by any employee, and a labor
2 representative if requested by the employee, who is involved in a
3 complaint;

4 (f) Processes for the hospital staffing committee to conduct
5 quarterly reviews of staff turnover rates including new hire turnover
6 rates during first year of employment and hospital plans regarding
7 workforce development;

8 (g) Standards for hospital staffing committee approval of meeting
9 documentation including meeting minutes, attendance, and actions
10 taken; and

11 (h) Policies for retention of meeting documentation for a minimum
12 of three years and consistent with each hospital's document retention
13 policies.

14 **Sec. 6.** RCW 70.41.425 and 2017 c 249 s 3 are each amended to
15 read as follows:

16 (1) (a) The department shall investigate a complaint submitted
17 under this section for violation of RCW 70.41.420 (as recodified by
18 this act) or section 3 of this act following receipt of a complaint
19 with documented evidence of failure to:

20 (i) Form or establish a hospital staffing committee;

21 (ii) Conduct a semiannual review of a ((nurse)) staffing plan;

22 (iii) Submit a ((nurse)) staffing plan on an annual basis and any
23 updates; or

24 (iv) ((A)) Follow the ((nursing)) personnel assignments in a
25 patient care unit in violation of section 3 of this act, RCW
26 70.41.420(7) (a) (as recodified by this act), or shift-to-shift
27 adjustments in staffing levels in violation of RCW 70.41.420(7) (b)
28 (as recodified by this act).

29 ~~((B) The department may only investigate a complaint under this~~
30 ~~subsection (1) (a) (iv) after making an assessment that the submitted~~
31 ~~evidence indicates a continuing pattern of unresolved violations of~~
32 ~~RCW 70.41.420(7) (a) or (b), that were submitted to the nurse~~
33 ~~staffing committee excluding complaints determined by the nurse~~
34 ~~staffing committee to be resolved or dismissed. The submitted~~
35 ~~evidence must include the aggregate data contained in the complaints~~
36 ~~submitted to the hospital's nurse staffing committee that indicate a~~
37 ~~continuing pattern of unresolved violations for a minimum sixty-day~~
38 ~~continuous period leading up to receipt of the complaint by the~~
39 ~~department.~~

1 ~~(C) The department may not investigate a complaint under this~~
2 ~~subsection (1)(a)(iv) in the event of unforeseeable emergency~~
3 ~~circumstances or if the hospital, after consultation with the nurse~~
4 ~~staffing committee, documents it has made reasonable efforts to~~
5 ~~obtain staffing to meet required assignments but has been unable to~~
6 ~~do so.))~~

7 (b) After an investigation conducted under (a) of this
8 subsection, if the department determines that there has been a
9 violation, the department shall require the hospital to submit a
10 corrective plan of action within ~~((forty-five))~~ 45 days of the
11 presentation of findings from the department to the hospital.

12 (c) Hospitals will not be found in violation of section 3 of this
13 act or RCW 70.41.420 (as recodified by this act) if it has been
14 determined, following an investigation, that:

15 (i) There were unforeseeable emergent circumstances; or

16 (ii) The hospital, after consultation with the hospital staffing
17 committee, documents that the hospital has made reasonable efforts to
18 obtain and retain staffing to meet required personnel assignments but
19 has been unable to do so.

20 (d) No later than 30 days after a hospital deviates from its
21 staffing plan as adopted by the staffing committee under RCW
22 70.41.420 (as recodified by this act), the hospital incident command
23 shall report to the cochairs of the hospital staffing committee an
24 assessment of the staffing needs arising from the unforeseeable
25 emergent circumstance and the hospital's plan to address those
26 identified staffing needs. Upon receipt of the report, the hospital
27 staffing committee shall convene to develop a contingency staffing
28 plan to address the needs arising from the unforeseeable emergent
29 circumstance. The hospital's deviation from its staffing plan may not
30 be in effect for more than 90 days without the approval of the
31 hospital staffing committee.

32 (2) In the event that a hospital fails to submit or submits but
33 fails to follow such a corrective plan of action in response to a
34 violation or violations found by the department based on a complaint
35 filed pursuant to subsection (1) of this section, the department may
36 impose, for all violations asserted against a hospital at any time, a
37 civil penalty of ~~((one hundred dollars))~~ \$5,000 per day for hospitals
38 licensed under chapter 70.41 RCW, or \$100 per day for: (a) Hospitals
39 certified as critical access hospitals; (b) hospitals with fewer than
40 25 acute care beds in operation; and (c) hospitals certified by the

1 centers for medicare and medicaid services as sole community
2 hospitals as of January 1, 2013, that: Have had less than 150 acute
3 care licensed beds in fiscal year 2011; have a level III adult trauma
4 service designation from the department of health as of January 1,
5 2014; and are owned and operated by the state or a political
6 subdivision. Civil penalties apply until the hospital submits (~~or~~
7 ~~begins to follow~~) a corrective plan of action (~~or takes other~~
8 ~~action agreed to~~) that has been approved by the department and
9 follows the corrective plan of action for 90 days. Once the approved
10 corrective action plan has been followed by the hospital for 90 days,
11 the department may reduce the accumulated fine. The fine shall
12 continue to accumulate until the 90 days has passed. Revenue from
13 these fines must be deposited into the supplemental pension fund
14 established under RCW 51.44.033.

15 (3) The department shall maintain for public inspection records
16 of any civil (~~penalties,~~) penalties and administrative actions(~~(~~
17 ~~or license suspensions or revocations)~~) imposed on hospitals under
18 this section. In addition, the department must report violations of
19 this section on its website.

20 (4) (~~For purposes of this section, "unforeseeable emergency~~
21 ~~circumstance" means:~~

22 ~~(a) Any unforeseen national, state, or municipal emergency;~~

23 ~~(b) When a hospital disaster plan is activated;~~

24 ~~(c) Any unforeseen disaster or other catastrophic event that~~
25 ~~substantially affects or increases the need for health care services;~~
26 ~~or~~

27 ~~(d) When a hospital is diverting patients to another hospital or~~
28 ~~hospitals for treatment or the hospital is receiving patients who are~~
29 ~~from another hospital or hospitals.~~

30 ~~(5))~~ Nothing in this section shall be construed to preclude the
31 ability to otherwise submit a complaint to the department for failure
32 to follow RCW 70.41.420 (as recodified by this act).

33 (~~(6) The department shall submit a report to the legislature on~~
34 ~~December 31, 2020. This report shall include the number of complaints~~
35 ~~submitted to the department under this section, the disposition of~~
36 ~~these complaints, the number of investigations conducted, the~~
37 ~~associated costs for complaint investigations, and recommendations~~
38 ~~for any needed statutory changes. The department shall also project,~~
39 ~~based on experience, the impact, if any, on hospital licensing fees~~
40 ~~over the next four years. Prior to the submission of the report, the~~

1 ~~secretary shall convene a stakeholder group consisting of the~~
2 ~~Washington state hospital association, the Washington state nurses~~
3 ~~association, service employees international union healthcare 1199NW,~~
4 ~~and united food and commercial workers 21. The stakeholder group~~
5 ~~shall review the report prior to its submission to review findings~~
6 ~~and jointly develop any legislative recommendations to be included in~~
7 ~~the report.~~

8 ~~(7) No fees shall be increased to implement chapter 249, Laws of~~
9 ~~2017 prior to July 1, 2021.)~~

10 NEW SECTION. **Sec. 7.** (1)(a) The department shall review each
11 hospital staffing plan submitted by a hospital to ensure it is
12 received by the appropriate deadline and is completed on the
13 department-issued staffing plan form.

14 (b) The hospital must complete all portions of the staffing plan
15 form. The department may determine that a hospital has failed to
16 timely submit its staffing plan if the staffing plan form is
17 incomplete.

18 (c) Failure to submit the staffing plan by the appropriate
19 deadline will result in a violation and civil penalty of \$25,000
20 issued by the department. Revenue from these fines must be deposited
21 into the supplemental pension fund established under RCW 51.44.033.

22 (2) Failure to submit a staffing committee charter to the
23 department by the appropriate deadline will result in a violation and
24 a civil penalty of \$25,000 issued by the department. Revenue from
25 these fines must be deposited into the supplemental pension fund
26 established under RCW 51.44.033.

27 (3) The department must post on its website:

28 (a) Hospital staffing plans;

29 (b) Staffing committee charters; and

30 (c) Violations of this section.

31 **Sec. 8.** RCW 49.12.480 and 2019 c 296 s 1 are each amended to
32 read as follows:

33 (1) An employer shall provide employees with meal and rest
34 periods as required by law, subject to the following:

35 (a) Rest periods must be scheduled at any point during each work
36 period during which the employee is required to receive a rest
37 period;

1 (b) Employers must provide employees with uninterrupted meal and
2 rest breaks. This subsection (1)(b) does not apply in the case of:

3 (i) An unforeseeable emergent circumstance, as defined in RCW
4 49.28.130 (~~;~~ or

5 ~~(ii) A clinical circumstance, as determined by the employee,~~
6 ~~employer, or employer's designee, that may lead to a significant~~
7 ~~adverse effect on the patient's condition:~~

8 ~~(A) Without the knowledge, specific skill, or ability of the~~
9 ~~employee on break; or~~

10 ~~(B) Due to an unforeseen or unavoidable event relating to patient~~
11 ~~care delivery requiring immediate action that could not be planned~~
12 ~~for by an employer;~~

13 ~~(c) For any rest break that is interrupted before ten complete~~
14 ~~minutes by an employer or employer's designee under the provisions of~~
15 ~~(b)(ii) of this subsection, the employee must be given an additional~~
16 ~~ten minute uninterrupted rest break at the earliest reasonable time~~
17 ~~during the work period during which the employee is required to~~
18 ~~receive a rest period. If the elements of this subsection are met, a~~
19 ~~rest break shall be considered taken for the purposes of the minimum~~
20 ~~wage act as defined by chapter 49.46 RCW) (as recodified by this~~
21 ~~act); or~~

22 (ii) A clinical circumstance, as determined by the employee that
23 may lead to a significant adverse effect on the patient's condition,
24 unless the employer or employer's designee determines that the
25 patient may suffer life-threatening adverse effects.

26 (c) For any work period for which an employee is entitled to one
27 or more meal period and more than one rest period, the employee and
28 the employer may agree that a meal period may be combined with a rest
29 period. This agreement may be revoked at any time by the employee. If
30 the employee is required to remain on duty during the combined meal
31 and rest period, the time shall be paid. If the employee is released
32 from duty for an uninterrupted combined meal and rest period, the
33 time corresponding to the meal period shall be unpaid, but the time
34 corresponding to the rest period shall be paid.

35 (2) The employer shall provide a mechanism to record when an
36 employee misses a meal or rest period and maintain these records.

37 (3) For purposes of this section, the following terms have the
38 following meanings:

39 (a) "Employee" means a person who:

40 (i) Is employed by (~~a health care facility~~) an employer;

1 (ii) Is involved in direct patient care activities or clinical
2 services; and

3 (iii) Receives an hourly wage or is covered by a collective
4 bargaining agreement (~~;~~ and

5 ~~(iv) Is a licensed practical nurse or registered nurse licensed
6 under chapter 18.79 RCW, a surgical technologist registered under
7 chapter 18.215 RCW, a diagnostic radiologic technologist or
8 cardiovascular invasive specialist certified under chapter 18.84 RCW,
9 a respiratory care practitioner licensed under chapter 18.89 RCW, or
10 a nursing assistant certified as defined in RCW 18.88A.020).~~

11 (b) "Employer" means hospitals licensed under chapter 70.41
12 RCW (~~;~~ except that the following hospitals are excluded until July 1,
13 2021:

14 ~~(i) Hospitals certified as critical access hospitals under 42
15 U.S.C. Sec. 1395i-4;~~

16 ~~(ii) Hospitals with fewer than twenty-five acute care beds in
17 operation; and~~

18 ~~(iii) Hospitals certified by the centers for medicare and
19 medicaid services as sole community hospitals as of January 1, 2013,
20 that: Have had less than one hundred fifty acute care licensed beds
21 in fiscal year 2011; have a level III adult trauma service
22 designation from the department of health as of January 1, 2014; and
23 are owned and operated by the state or a political subdivision).~~

24 **Sec. 9.** RCW 49.28.130 and 2019 c 296 s 2 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this section and
27 RCW 49.28.140 and 49.28.150 (as recodified by this act) unless the
28 context clearly requires otherwise.

29 (1) (a) "Employee" means a person who:

30 (i) Is employed by a health care facility;

31 (ii) Is involved in direct patient care activities or clinical
32 services; and

33 (iii) Receives an hourly wage or is covered by a collective
34 bargaining agreement (~~;~~ and

35 ~~(iv) Is either:~~

36 ~~(A) A licensed practical nurse or registered nurse licensed under
37 chapter 18.79 RCW; or~~

38 ~~(B) Beginning July 1, 2020, a surgical technologist registered
39 under chapter 18.215 RCW, a diagnostic radiologic technologist or~~

1 ~~cardiovascular invasive specialist certified under chapter 18.84 RCW,~~
2 ~~a respiratory care practitioner licensed under chapter 18.89 RCW, or~~
3 ~~a nursing assistant certified as defined in RCW 18.88A.020).~~

4 (b) "Employee" does not mean a person who is both:

5 (i) ~~((Is employed))~~ Employed by a health care facility as defined
6 in subsection (3) (a) (v) of this section; and

7 (ii) ~~((Is a))~~ A surgical technologist registered under chapter
8 18.215 RCW, a diagnostic radiologic technologist or cardiovascular
9 invasive specialist certified under chapter 18.84 RCW, a respiratory
10 care practitioner licensed under chapter 18.89 RCW, or a certified
11 nursing assistant as defined in RCW 18.88A.020.

12 (2) "Employer" means an individual, partnership, association,
13 corporation, the state, a political subdivision of the state, or
14 person or group of persons, acting directly or indirectly in the
15 interest of a health care facility.

16 (3) (a) "Health care facility" means the following facilities, or
17 any part of the facility, including such facilities if owned and
18 operated by a political subdivision or instrumentality of the state,
19 that operate on a twenty-four hours per day, seven days per week
20 basis:

21 (i) Hospices licensed under chapter 70.127 RCW;

22 (ii) Hospitals licensed under chapter 70.41 RCW ~~((, except that~~
23 ~~until July 1, 2021, the provisions of section 3, chapter 296, Laws of~~
24 ~~2019 do not apply to:~~

25 ~~(A) Hospitals certified as critical access hospitals under 42~~
26 ~~U.S.C. Sec. 1395i-4;~~

27 ~~(B) Hospitals with fewer than twenty-five acute care beds in~~
28 ~~operation; and~~

29 ~~(C) Hospitals certified by the centers for medicare and medicaid~~
30 ~~services as sole community hospitals as of January 1, 2013, that:~~
31 ~~Have had less than one hundred fifty acute care licensed beds in~~
32 ~~fiscal year 2011; have a level III adult trauma service designation~~
33 ~~from the department of health as of January 1, 2014; and are owned~~
34 ~~and operated by the state or a political subdivision));~~

35 (iii) Rural health care facilities as defined in RCW 70.175.020;

36 (iv) Psychiatric hospitals licensed under chapter 71.12 RCW; or

37 (v) Facilities owned and operated by the department of
38 corrections or by a governing unit as defined in RCW 70.48.020 in a
39 correctional institution as defined in RCW 9.94.049 that provide
40 health care services.

1 (b) If a nursing home regulated under chapter 18.51 RCW or a home
2 health agency regulated under chapter 70.127 RCW is operating under
3 the license of a health care facility, the nursing home or home
4 health agency is considered part of the health care facility for the
5 purposes of this subsection.

6 (4) "Overtime" means the hours worked in excess of an agreed
7 upon, predetermined, regularly scheduled shift within a twenty-four
8 hour period not to exceed twelve hours in a twenty-four hour period
9 or eighty hours in a consecutive fourteen-day period.

10 (5) "On-call time" means time spent by an employee who is not
11 working on the premises of the place of employment but who is
12 compensated for availability or who, as a condition of employment,
13 has agreed to be available to return to the premises of the place of
14 employment on short notice if the need arises.

15 (6) "Reasonable efforts" means that the employer(~~(, to the extent~~
16 ~~reasonably possible, does)) exhausts and documents all of the~~

17 following but is unable to obtain staffing coverage:
18 (a) Seeks individuals to volunteer to work extra time from all
19 available qualified staff who are working;

20 (b) Contacts qualified employees who have made themselves
21 available to work extra time;

22 (c) Seeks the use of per diem staff; and

23 (d) Seeks personnel from a contracted temporary agency when such
24 staffing is permitted by law or an applicable collective bargaining
25 agreement, and when the employer regularly uses a contracted
26 temporary agency.

27 (7) "Unforeseeable emergent circumstance" means (a) any
28 unforeseen declared national, state, or municipal emergency; or (b)
29 when a health care facility disaster plan is activated(~~(; or (c) any~~
30 ~~unforeseen disaster or other catastrophic event which substantially~~
31 ~~affects or increases the need for health care services)).~~

32 **Sec. 10.** RCW 49.28.140 and 2019 c 296 s 3 are each amended to
33 read as follows:

34 (1) No employee of a health care facility may be required to work
35 overtime. Attempts to compel or force employees to work overtime are
36 contrary to public policy, and any such requirement contained in a
37 contract, agreement, or understanding is void.

38 (2) The acceptance by any employee of overtime is strictly
39 voluntary, and the refusal of an employee to accept such overtime

1 work is not grounds for discrimination, dismissal, discharge, or any
2 other penalty, threat of reports for discipline, or employment
3 decision adverse to the employee.

4 (3) This section does not apply to overtime work that occurs:

5 (a) Because of mandatory any unforeseeable emergent circumstance;

6 (b) Because of prescheduled on-call time not to exceed more than
7 24 hours per week, subject to the following:

8 (i) Mandatory prescheduled on-call time may not be used in lieu
9 of scheduling employees to work regularly scheduled shifts when a
10 staffing plan indicates the need for a scheduled shift; and

11 (ii) Mandatory prescheduled on-call time may not be used to
12 address regular changes in patient census or acuity or expected
13 increases in the number of employees not reporting for predetermined
14 scheduled shifts;

15 (c) When the employer documents that the employer has used
16 reasonable efforts to obtain and retain staffing. An employer has not
17 used reasonable efforts if overtime work is used to fill vacancies
18 resulting from chronic staff shortages that persist longer than three
19 months; or

20 (d) When an employee is required to work overtime to complete a
21 patient care procedure already in progress where the absence of the
22 employee could have an adverse effect on the patient.

23 (4) An employee accepting overtime who works more than twelve
24 consecutive hours shall be provided the option to have at least eight
25 consecutive hours of uninterrupted time off from work following the
26 time worked.

27 **Sec. 11.** RCW 49.28.150 and 2002 c 112 s 4 are each amended to
28 read as follows:

29 The department of labor and industries shall investigate
30 complaints of violations of RCW 49.28.140 (as recodified by this act)
31 as provided under section 12 of this act. (~~(A violation of RCW~~
32 ~~49.28.140 is a class 1 civil infraction in accordance with chapter~~
33 ~~7.80 RCW, except that the maximum penalty is one thousand dollars for~~
34 ~~each infraction up to three infractions. If there are four or more~~
35 ~~violations of RCW 49.28.140 for a health care facility, the employer~~
36 ~~is subject to a fine of two thousand five hundred dollars for the~~
37 ~~fourth violation, and five thousand dollars for each subsequent~~
38 ~~violation. The department of labor and industries is authorized to~~
39 ~~issue and enforce civil infractions according to chapter 7.80 RCW.))~~

1 NEW SECTION. **Sec. 12.** (1)(a) If a complainant files a complaint
2 with the department alleging a violation of this chapter, the
3 department shall investigate the complaint.

4 (b) The department may not investigate any such alleged violation
5 of rights that occurred more than three years before the date that
6 the complainant filed the complaint.

7 (c) Upon the investigation of a complaint, the department shall
8 issue either a citation and notice of assessment or a closure letter,
9 within 90 days after the date on which the department received the
10 complaint, unless the complaint is otherwise resolved. The department
11 may extend the period by providing advance written notice to the
12 complainant and the employer setting forth good cause for an
13 extension of the period, and specifying the duration of the
14 extension.

15 (d) The department shall send a citation and notice of assessment
16 or the closure letter to both the employer and the complainant by
17 service of process or using a method by which the mailing can be
18 tracked or the delivery can be confirmed to their last known
19 addresses.

20 (2) If the department's investigation finds that the
21 complainant's allegation cannot be substantiated, the department
22 shall issue a closure letter to the complainant and the employer
23 detailing such finding.

24 (3)(a) If the department finds a violation of this chapter, the
25 department shall order the employer to pay the department a civil
26 penalty.

27 (b) Except as provided otherwise in this chapter, the maximum
28 penalty is \$1,000 for each violation up to three violations. If there
29 are four or more violations of this chapter for a health care
30 facility, the employer is subject to a civil penalty of \$2,500 for
31 the fourth violation, and \$5,000 for each subsequent violation.

32 (4) The department may, at any time, waive or reduce a civil
33 penalty assessed under this section if the director of the department
34 determines that the employer has taken corrective action to resolve
35 the violation.

36 (5) The department shall deposit all civil penalties paid under
37 this chapter in the supplemental pension fund established under RCW
38 51.44.033.

1 NEW SECTION. **Sec. 13.** (1) A person, firm, or corporation
2 aggrieved by a citation and notice of assessment by the department
3 under this chapter may appeal the citation and notice of assessment
4 to the director of the department by filing a notice of appeal with
5 the director within 30 days of the department's issuance of the
6 citation and notice of assessment. A citation and notice of
7 assessment not appealed within 30 days is final and binding, and not
8 subject to further appeal.

9 (2) A notice of appeal filed with the director of the department
10 under this section shall stay the effectiveness of the citation and
11 notice of assessment pending final review of the appeal by the
12 director as provided for in chapter 34.05 RCW.

13 (3) Upon receipt of a notice of appeal, the director of the
14 department shall assign the hearing to an administrative law judge of
15 the office of administrative hearings to conduct the hearing and
16 issue an initial order. The hearing and review procedures shall be
17 conducted in accordance with chapter 34.05 RCW, and the standard of
18 review by the administrative law judge of an appealed citation and
19 notice of assessment shall be de novo. Any party who seeks to
20 challenge an initial order shall file a petition for administrative
21 review with the director within 30 days after service of the initial
22 order. The director shall conduct administrative review in accordance
23 with chapter 34.05 RCW.

24 (4) The director of the department shall issue all final orders
25 after appeal of the initial order. The final order of the director is
26 subject to judicial review in accordance with chapter 34.05 RCW.

27 (5) Orders that are not appealed within the time period specified
28 in this section and chapter 34.05 RCW are final and binding, and not
29 subject to further appeal.

30 (6) An employer who fails to allow adequate inspection of records
31 in an investigation by the department under this chapter within a
32 reasonable time period may not use such records in any appeal under
33 this section to challenge the correctness of any determination by the
34 department of the penalty assessed.

35 NEW SECTION. **Sec. 14.** Collections of unpaid citations assessing
36 civil penalties will be pursuant to RCW 49.48.086.

37 NEW SECTION. **Sec. 15.** (1) Any employee employed by a health
38 care facility covered by RCW 49.12.480, 49.28.130, and 49.28.140 (as

1 recodified by this act), and any direct care nurse or direct care
2 nursing assistant-certified covered by section 3 of this act, or any
3 labor organization that is the exclusive bargaining representative of
4 any such persons, alleging a violation of this chapter may bring a
5 civil action against the health care facility or hospital.

6 (2) A health care facility's or hospital's violation of this
7 chapter or rules adopted under this chapter constitutes a concrete
8 and particularized injury in fact to employees employed by the health
9 care facility.

10 (3) The court may award to a prevailing plaintiff:

11 (a) An amount not less than \$100 and not greater than \$5,000 per
12 violation per day;

13 (b) Reasonable attorneys' fees and litigation costs;

14 (c) Any other relief, including equitable and declaratory relief,
15 that the court deems appropriate.

16 (4) The remedy under this section is in addition to any
17 administrative enforcement under this chapter.

18 NEW SECTION. **Sec. 16.** The department may adopt and implement
19 rules to carry out and enforce the provisions of this chapter,
20 including but not limited to protecting employees from retaliation
21 for filing complaints under this chapter.

22 NEW SECTION. **Sec. 17.** (1) By November 1, 2023, the department
23 of health must submit a report to the appropriate committees of the
24 legislature that assesses the state's alternatives to increase the
25 registered nurse licensure reciprocity between Washington and other
26 states, in particular bordering states. In developing the report
27 under this section, the department must consult with stakeholders
28 including, but not limited to, the nursing commission, unions
29 representing registered nurses, and the Washington state hospital
30 association. The department must also consult with the military
31 department to gather relevant information pertaining to impacts on
32 military spouses and partners.

33 (2) The report must include, at a minimum:

34 (a) An assessment of current registered nurse reciprocity laws,
35 compacts, and rules;

36 (b) Alternatives to current reciprocity laws and rules, and the
37 impacts of these alternatives; and

1 (c) Information on how military spouses or partners may benefit
2 from a compact or reciprocity.

3 (3) This section expires November 1, 2024.

4 NEW SECTION. **Sec. 18.** 2017 c 249 s 4 (uncodified) is repealed.

5 NEW SECTION. **Sec. 19.** Sections 3, 4, 7, and 12 through 16 of
6 this act constitute a new chapter in Title 49 RCW.

7 NEW SECTION. **Sec. 20.** RCW 70.41.410, 70.41.420, and 70.41.425
8 are each recodified as sections in chapter 49.--- RCW (the new
9 chapter created in section 19 of this act).

10 NEW SECTION. **Sec. 21.** RCW 49.12.480, 49.28.130, 49.28.140, and
11 49.28.150 are each recodified as sections in chapter 49.--- RCW (the
12 new chapter created in section 19 of this act).

13 NEW SECTION. **Sec. 22.** This act takes effect January 1, 2023.

14 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2022, in the omnibus appropriations act, this
17 act is null and void."

18 Correct the title.

EFFECT: (1) *Staffing standards:* Removes oncology and cardiac monitoring units from staffing standards requirements. Changes the nurse to patient ratios as follows: (a) For medical-surgical units from 1 nurse to 4 patients to 1:5; (b) for telemetry units: from 1:3 to 1:4; (c) for psychiatric units: from 1:7 to 1:8; and (d) for emergency departments: from 1:7 to 1:8. Provides that the staffing standards do not decrease any nurse-to-patient staffing level in a staffing plan established as of January 1, 2022, except with majority vote of the staffing committee. Allows the Department of Labor and Industries to grant a variance from the minimum staffing standards for good cause. Defines "good cause" as situations where compliance is infeasible and granting a variance does not have a significant harmful effect on employees and patients.

(2) *Staffing plans:* Requires the Department to consult with hospital and labor organizations stakeholders in creating the uniform form. Changes the dates in which hospitals must submit and implement their staffing plan, from June 1, 2023, to July 1, 2024.

(3) *Charters:* Requires the staffing committee charter to include a process to resolve complaints within 90 days, rather than 60, and narrows who may attend a complaint proceeding.

(4) *Fines and damages:* Lowers the daily fine, from \$10,000 to \$5,000, for a hospital's failure to submit or follow an annual staffing plan or corrective action plan. Lowers the amount a court may award a plaintiff in a private right of action from \$10,000 to \$5,000 per day.

(5) *Meal and rest breaks and overtime:* Retains current law requiring an additional 10 minute rest break if the employee's break is interrupted. Allows an exemption from the uninterrupted rest break provision for certain clinical circumstances. Allows the employee and employer to agree to combine the meal period with the rest period. Provides that the prescheduled on-call time exemption from the overtime prohibition may not exceed more than 24 hours per week, rather than 20 hours.

(6) *Other:* Specifies that physicians, physician's assistants, and advanced registered practitioner nurses are not included in the definition of "ancillary health care personnel." Adds an intent section. Requires the Department of Health to submit a report to the Legislature, by November 1, 2023, assessing reciprocity laws, compacts, and rules and alternatives.

--- END ---