**5236-S2 AMS MULL S2145.2 - NOT FOR FLOOR USE**

**2SSB 5236** - S AMD **180**

By Senator Mullet

**ADOPTED AS AMENDED 03/06/2023**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in consultation with the department of labor and industries, must establish an advisory committee on hospital staffing by September 1, 2023.

(2) Appointments to the advisory committee on hospital staffing shall be jointly made by the secretary and the director of labor and industries. Members of the committee must have expertise in hospital staffing and working conditions and should reflect a diversity of hospital settings.

(3) The advisory committee membership includes:

(a) Six members representing hospitals and hospital systems and their alternates, selected from a list of nominees submitted by the Washington state hospital association; and

(b) Six members representing frontline hospital patient care staff and their alternates, selected from a list of nominees submitted by collective bargaining representatives of frontline hospital nursing staff.

(4) Any list submitted to the departments for the initial appointment under this section must be provided by August 4, 2023.

(5) If any member of the advisory committee is unable to continue to serve on the committee the secretary and the director of labor and industries shall select a new member based on the recommendations of either the hospital association for members appointed under subsection (3)(a) of this section or the collective bargaining representative for members appointed under subsection (3)(b) of this section.

(6) The advisory committee on hospital staffing shall meet at least once per month until the hospital staffing plan uniform form is developed.

(7) The advisory committee on hospital staffing shall advise the department on its development of the uniform hospital staffing plan form.

(8) The department and the department of labor and industries shall provide any necessary documentation to the advisory committee on hospital staffing in advance of the meetings to discuss technical assistance so that the advisory committee may consider areas of needed information.

(9) The advisory committee on hospital staffing must consider innovative hospital staffing and care delivery models, such as those that integrate on-site team-based care delivery, use of patient monitoring equipment and technology, and virtual or remote care delivery. This includes identifying and analyzing innovative hospital staffing and care delivery models including those explored by national organizations and evaluating feasibility of broad-based implementation of identified models. The advisory committee may consider disseminating this information and analysis.

(10) The department and the department of labor and industries must provide the advisory committee on hospital staffing with data on a quarterly basis related to compliance with this chapter, complaint filing and disposition trends, and notification of corrective plans of action plans and adherence to those plans.

(11) By December 1, 2023, the Washington state hospital association shall survey hospitals in Washington state and report to the advisory committee on hospital staffing on Washington hospitals' existing use of innovative hospital staffing and care delivery models including, but not limited to, integration of patient monitoring equipment, remote patient monitoring, team-based care models, apprenticeship and career ladder programs, and virtual or remote care delivery models, and any challenges with implementing the models.

(12) By December 1, 2024, the advisory committee on hospital staffing must review the report prepared by the Washington state institute for public policy as required by section 15 of this act.

(13) After January 1, 2027, when the forms are developed and effective, the advisory committee on hospital staffing may meet if it is determined by the department of health and committee members that such meetings are necessary.

(14) No earlier than July 1, 2029, the advisory committee on hospital staffing must discuss the issues related to applicability of RCW 70.41.420(7)(b) (i) and (ii) for hospitals listed under RCW 70.41.420(7)(b)(iv). This must include possible data collection options, potential costs, sources of funding, and implementation timeline.

(15) The advisory committee on hospital staffing must advise the department of labor and industries on the department's development by March 1, 2024, of a uniform form for reporting under RCW 49.12.480(2).

(16) This section expires July 1, 2030.

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

The definitions in this section apply throughout this section ((~~and~~)), RCW 70.41.420, and 70.41.425 unless the context clearly requires otherwise.

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

(2) "Hospital staffing committee" means the committee established by a hospital under RCW 70.41.420.

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

((~~(3)~~)) (4) "Nursing assistant-certified" means an individual certified under chapter 18.88A RCW who provides direct care to patients.

(5) "Nursing ((~~personnel~~)) staff" means registered nurses, licensed practical nurses, nursing assistants-certified, and unlicensed assistive nursing personnel providing direct patient care.

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

~~(5)~~)) (6) "Patient care staff" means a person who is providing direct care or supportive services to patients but who is not:

(a) Nursing staff as defined in this section;

(b) A physician licensed under chapter 18.71 or 18.57 RCW;

(c) A physician's assistant licensed under chapter 18.71A RCW; or

(d) An advanced registered nurse practitioner licensed under RCW 18.79.250, unless working as a direct care registered nurse.

(7) "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.

((~~(6)~~)) (8) "Reasonable efforts" means that the employer exhausts and documents all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to consent to work additional time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work additional time;

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

(d) When practical, seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(9) "Registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients.

(10) "Skill mix" means the experience of, and number and relative percentages of ((~~registered nurses, licensed practical nurses, and unlicensed assistive personnel among the total number of nursing personnel~~)), nursing and patient care staff.

(11) "Unforeseeable emergent circumstance" means:

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

(b) When a hospital disaster plan is activated;

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

(d) When a hospital is diverting patients to another hospital or hospitals for treatment.

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

(1) By ((~~September~~)) January 1, ((~~2008~~)) 2024, each hospital shall establish a ((~~nurse~~)) hospital staffing committee, either by creating a new committee or assigning the functions of ((~~a~~)) the hospital staffing committee to an existing nurse staffing committee ((~~to an existing committee~~)).

(2) Hospital staffing committees must be comprised of:

(a) At least ((~~one-half~~)) 50 percent of the voting members of the ((~~nurse~~)) hospital staffing committee shall be ((~~registered nurses~~)) nursing staff, who are nonsupervisory and nonmanagerial, currently providing direct patient care ((~~and up to one-half of the members shall be determined by the hospital administration~~)). The selection of the ((~~registered nurses providing direct patient care~~)) nursing staff shall be according to the collective bargaining ((~~agreement~~)) representative or representatives if there is one ((~~in effect~~)) or more at the hospital. If there is no ((~~applicable~~)) collective bargaining ((~~agreement~~)) representative, the members of the ((~~nurse~~)) hospital staffing committee who are ((~~registered nurses~~)) nursing staff providing direct patient care shall be selected by their peers.

((~~(2)~~)) (b) 50 percent of the members of the hospital staffing committee shall be determined by the hospital administration and shall include but not be limited to the chief financial officer, the chief nursing officers, and patient care unit directors or managers or their designees.

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

((~~(3)~~)) (4) Primary responsibilities of the ((~~nurse~~)) hospital staffing committee shall include:

(a) Development and oversight of an annual patient care unit and shift‑based ((~~nurse~~)) hospital staffing plan, based on the needs of patients, to be used as the primary component of the staffing budget. The hospital staffing committee shall use a uniform format or form, created by the department in consultation with the advisory committee established in section 1 of this act and the department of labor and industries, for complying with the requirement to submit the annual staffing plan. The uniform format or form must allow for variations in service offerings, facility design, and other differences between hospitals, but must allow patients and the public to clearly understand and compare staffing plans. Hospitals may include a description of additional resources available to support unit-level patient care and a description of the hospital, including the size and type of facility. Factors to be considered in the development of the plan should include, but are not limited to:

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

(ii) ((~~Level of intensity of all patients and nature of the~~)) Patient acuity level, intensity of care needs, and the type of care to be delivered on each shift;

(iii) Skill mix;

(iv) Level of experience and specialty certification or training of nursing ((~~personnel~~)) and patient care staff providing care;

(v) The need for specialized or intensive equipment;

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

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

(viii) Availability of other personnel and patient care staff supporting nursing services on the unit; and

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

(b) Semiannual review of the staffing plan against patient need and known evidence-based staffing information, including the nursing sensitive quality indicators collected by the hospital; and

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

((~~(4)~~)) (5) In addition to the factors listed in subsection ((~~(3)~~)) (4)(a) of this section, hospital finances and resources must be taken into account in the development of the ((~~nurse~~)) hospital staffing plan.

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

(6)(a) The committee ((~~will~~)) shall produce the hospital's annual ((~~nurse~~)) hospital staffing plan.

((~~If this staffing plan is not adopted by the hospital, the chief executive officer shall provide a written explanation of the reasons why the plan was not adopted to the committee. The chief executive officer must then either: (a) Identify those elements of the proposed plan being changed prior to adoption of the plan by the hospital or (b) prepare an alternate annual staffing plan that must be adopted by the hospital.~~))

(b) The committee shall propose by a 50 percent plus one vote a draft of the hospital's annual staffing plan which must be delivered to the hospital's chief executive officer or their designee by July 1, 2024, and annually thereafter.

(c) The chief executive officer or their designee must provide written feedback to the hospital staffing committee on the proposed annual staffing plan. The feedback must:

(i) Identify those elements of the proposed staffing plan the chief executive officer requests to be changed to address elements identified by the chief executive officer, including subsection (4)(a) of this section, that could cause the chief executive officer concern regarding financial feasibility, concern regarding temporary or permanent closure of units, or patient care risk; and

(ii) Provide a status report on implementation of the staffing plan including nursing sensitive quality indicators collected by the hospital, patient surveys, and recruitment and retention efforts, including the hospital's success over the previous six months in filling approved open positions for employees covered by the staffing plan.

(d) The committee must review and consider any feedback required under (c)(i) of this subsection prior to approving by a 50 percent plus one vote a revised hospital staffing plan to provide to the chief executive officer.

(e) If this revised proposed staffing plan is not adopted by the hospital, the most recent of the following remains in effect:

(i) The staffing plan that was in effect January 1, 2023; or

(ii) The staffing plan last approved by a 50 percent plus one vote of a duly constituted hospital staffing committee and adopted by the hospital, in accordance with all standards under this section.

(f) Beginning ((~~January 1, 2019~~)) January 1, 2025, each hospital shall submit its final staffing plan to the department and thereafter on an annual basis and at any time in between that the plan is updated.

(7)(a) Beginning ((~~January 1, 2019~~)) July 1, 2025, each hospital shall implement the staffing plan and assign nursing ((~~personnel~~)) staff to each patient care unit in accordance with the plan except in instances of unforeseeable emergent circumstances.

((~~(a)~~)) (b) Each hospital shall document when a patient care unit nursing staff assignment is out of compliance with the adopted hospital staffing plan. For purposes of this subsection, out of compliance means the number of patients assigned to the nursing staff exceeds the patient care unit assignment as directed by the nurse staffing plan. The hospital must adopt written policies and procedures under this subsection no later than October 1, 2024.

(i) Each hospital must report to the department on a semiannual basis the accurate percentage of nurse staffing assignments where the assignment in a patient care unit is out of compliance with the adopted nurse staffing plan. Beginning in 2026, semiannual reports are due on July 31st and January 31st each year. The first report is due January 31, 2026, and must cover the last six months of 2025.

(ii) Beginning in 2025, if a hospital is in compliance for less than 80 percent of the nurse staffing assignment in a month, the hospital must, within seven calendar days following the end of the month in which the hospital was out of compliance, report to the department regarding lack of compliance with the nurse staffing patient care unit assignments in the hospital staffing plan.

(iii) The department must develop a form or forms for the report to be made under this subsection by October 1, 2024. The form must include a checkbox for either cochair of the hospital staffing committee to indicate their belief that the validity of the report should be investigated by the department. If the checkbox on the form has been checked, the department may initiate an investigation as to the validity of the semiannual report under (b)(i) of this subsection.

(iv) This subsection (7)(b) does not apply to:

(A) Hospitals certified as critical access hospitals;

(B) Hospitals with fewer than 25 acute care licensed beds;

(C) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals that are not owned or operated by a health system that owns or operates more than one acute hospital licensed under chapter 70.41 RCW; and

(D) Hospitals located on an island operating within a public hospital district in Skagit county.

(c) A ((~~registered nurse~~)) nursing staff may report to the hospital staffing committee any variations where the ((~~nurse personnel~~)) nursing staff assignment in a patient care unit is not in accordance with the adopted staffing plan and may make a complaint to the committee based on the variations.

((~~(b)~~)) (d) Shift-to-shift adjustments in staffing levels required by the plan may be made by the appropriate hospital personnel overseeing patient care operations. If ((~~a registered nurse~~)) nursing staff on a patient care unit objects to a shift-to-shift adjustment, ((~~the registered nurse~~)) the nursing staff may submit the complaint to the hospital staffing committee.

((~~(c) Staffing~~)) (e) Hospital staffing committees shall develop a process to examine and respond to data submitted under ((~~(a)~~)) (b) and ((~~(b)~~)) (c) of this subsection, including the ability to determine if a specific complaint is resolved or dismissing a complaint based on unsubstantiated data. All written complaints submitted to the hospital staffing committee must be reviewed by the staffing committee, regardless of what format the complainant uses to submit the complaint.

(f) In the event of an unforeseeable emergent circumstance lasting for 15 days or more, the hospital incident command shall report within 30 days to the cochairs of the hospital staffing committee an assessment of the staffing needs arising from the unforeseeable emergent circumstance and the hospital's plan to address those identified staffing needs. Upon receipt of the report, the hospital staffing committee shall convene to develop a contingency staffing plan to address the needs arising from the unforeseeable emergent circumstance. The hospital's deviation from its staffing plan may not be in effect for more than 90 days without the review of the hospital staffing committee. Within 90 days of an initial deviation under this section the hospital must report to the department the basis for the deviation and must report to the department again once the deviation under this section is no longer in effect.

(g) A direct care registered nurse or direct care nursing assistant-certified may not be assigned by hospitals to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area and has demonstrated current competence in providing care in that area. The hospital must adopt written policies and procedures under this subsection no later than July 1, 2025.

(8) Each hospital shall post, in a public area on each patient care unit, the ((~~nurse~~)) staffing plan and the ((~~nurse~~)) staffing schedule for that shift on that unit, as well as the relevant clinical staffing for that shift. The staffing plan and current staffing levels must also be made available to patients and visitors upon request. The hospital must also post in a public area on each patient care unit any corrective action plan relevant to that patient care unit as required under RCW 70.41.425(4).

(9) A hospital may not retaliate against or engage in any form of intimidation ((~~of~~)) or otherwise take any adverse action against:

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

(b) An employee, patient, or other individual who notifies the ((~~nurse~~)) hospital staffing committee or the hospital administration of his or her concerns on nurse staffing.

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

(11) By July 1, 2024, the hospital staffing committee shall file with the department a charter that must include, but is not limited to:

(a) A process for electing cochairs and their terms;

(b) Roles, responsibilities, and processes by which the hospital staffing committee functions, including which patient care staff job classes will be represented on the committee as nonvoting members, how many members will serve on the committee, processes to ensure adequate quorum and ability of committee members to attend, and processes for replacing members who do not regularly attend;

(c) Schedule for monthly meetings with more frequent meetings as needed that ensures committee members have 30 days' notice of meetings;

(d) Processes by which all staffing complaints will be reviewed, investigated, and resolved, noting the date received as well as initial, contingent, and final disposition of complaints and corrective action plan where applicable;

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

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

(g) Processes for the hospital staffing committee to conduct quarterly reviews of: Staff turnover rates including new hire turnover rates during first year of employment; anonymized aggregate exit interview data on an annual basis; and hospital plans regarding workforce development;

(h) Standards for hospital staffing committee approval of meeting documentation including meeting minutes, attendance, and actions taken;

(i) Policies for retention of meeting documentation for a minimum of three years and consistent with each hospital's document retention policies;

(j) Processes for the hospital to provide the hospital staffing committee with information regarding patient complaints involving staffing made to the hospital through the patient grievance process required under 42 C.F.R. 482.13(a)(2); and

(k) Processes for how the information from the reports required under subsection (7) of this section will be used to inform the development and semiannual review of the staffing plan.

(12) The department and the department of labor and industries must provide technical assistance to hospital staffing committees to assist with compliance with this section. Technical assistance may not be provided during an inspection, or during the time between when an investigation of a hospital has been initiated and when such investigation is resolved.

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

(1)(a) The department shall investigate a complaint submitted under this section for violation of RCW 70.41.420 following receipt of a complaint with documented evidence of failure to:

(i) Form or establish a hospital staffing committee;

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

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

(iv)(A) Follow the nursing ((~~personnel~~)) staff assignments in a patient care unit in violation of RCW 70.41.420(7)((~~(a) or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b)~~)) (c) or (d).

(B) Based on their formal agreement required under sections 5 and 6 of this act, the department and the department of labor and industries shall investigate complaints under this subsection (1)(a)(iv). The departments may only investigate a complaint under this subsection (1)(a)(iv) ((~~after making an assessment that the submitted evidence indicates a continuing pattern of unresolved~~)) for violations of RCW 70.41.420(7) ((~~(a) or (b)~~)) (c) or (d), that were submitted to the ((~~nurse~~)) hospital staffing committee and remain unresolved for 60 days after receipt by the hospital staffing committee, excluding complaints determined by the ((~~nurse~~)) hospital staffing committee to be resolved or dismissed. ((~~The submitted evidence must include the aggregate data contained in the complaints submitted to the hospital's nurse staffing committee that indicate a continuing pattern of unresolved violations for a minimum sixty-day continuous period leading up to receipt of the complaint by the department.~~

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

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

(b) The department and the department of labor and industries may investigate and take appropriate enforcement action without any complaint if either department discovers data in the course of an investigation or inspection suggesting any violation of RCW 70.41.420.

(c) After an investigation conducted under (a) of this subsection, if the department and the department of labor and industries, pursuant to their formal agreement under sections 5 and 6 of this act, determine that there has been multiple unresolved violations of RCW 70.41.420(7) (c) and (d) of a similar nature within 30 days prior to the receipt of the complaint by the department, the department shall require the hospital to submit for their approval a corrective plan of action within 45 days of the presentation of findings from the department to the hospital.

(d) Hospitals will not be found in violation of RCW 70.41.420 if it has been determined, following an investigation, that:

(i) There were unforeseeable emergent circumstances and the process under RCW 70.41.420(7)(f) has been followed, if applicable;

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

(iii) Per documentation provided by the hospital, an individual admission of a patient in need of critical care to sustain their life or prevent disability received from another hospital caused the staffing plan violation alleged in the complaint.

(2)(a) The department shall review each hospital staffing plan submitted by a hospital to ensure it is received by the appropriate deadline and is completed on the department-issued staffing plan form.

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

(3) Beginning January 1, 2027, the department shall review all reports submitted under RCW 70.41.420(7)(b)(i) to ensure:

(a) The forms are received by the appropriate deadline;

(b) The forms are completed on the department-issued form; and

(c) The checkbox under RCW 70.41.420(7)(b)(iii) has not been checked.

(4) Beginning January 1, 2027, the department, in consultation with the department of labor and industries, must require a hospital to submit for their approval a corrective plan of action within 45 calendar days of a report to the department under RCW 70.41.420(7)(b)(ii) of this section or after an investigation under RCW 70.41.420(7)(b)(iii) of this section finds that the hospital is not in compliance.

(5)(a) Pursuant to their formal agreement under sections 5 and 6 of this act the department and the department of labor and industries must review and approve a hospital's proposed corrective plan of action under subsection (1)(c) or (4) of this section. As necessary, the department will require the hospital to revise the plan for it to adequately address issues identified by the department and the department of labor and industries prior to approving the plan.

(b) The department may review any corrective plan of action under subsection (1)(c) or (4) of this section that adversely impact provision of health care services or patient safety, and may require revisions to the corrective plan of action to ensure patient safety is maintained.

(c) A corrective plan of action may include, but is not limited to, the following elements:

(i) Exercising efforts to obtain additional staff;

(ii) Implementing actions to improve staffing plan variation or shift-to-shift adjustment planning;

(iii) Delaying the addition of new services or procedure areas;

(iv) Requiring minimum staffing standards;

(v) Reducing hospital beds or services; or

(vi) Closing the hospital emergency department to ambulance transport, except for patients in need of critical care to sustain their life or prevent disability.

(d) A corrective plan of action must be of a duration long enough to demonstrate the hospital's ability to sustain compliance with the requirements of this section.

(e) In the event that the hospital follows a corrective plan of action under this subsection but remains in compliance for less than 80 percent of the nurse staffing assignments in the month following completion of the corrective plan of action, the hospital is required to submit a revised corrective plan of action with new elements that are likely to produce a minimum of 80 percent of the nurse staffing assignments in a month.

(6)(a) In the event that a hospital fails to submit a staffing plan, staffing committee charter, or a corrective plan of action by the relevant deadline, the department may take administrative action with penalties up to $10,000 per 30 days of failure to comply.

(b)(i) In the event that a hospital ((~~fails to submit or~~)) submits but fails to follow ((~~such~~)) a corrective plan of action ((~~in response to a violation or violations found by the department based on a complaint filed pursuant to subsection (1) of this section~~)) required under subsection (1)(c) or (4) of this section, the department of labor and industries may impose((~~, for all violations asserted against a hospital at any time,~~)) a civil penalty of ((~~one hundred dollars~~)) $50,000 per ((~~day~~)) 30 days. Civil penalties apply until the hospital ((~~submits or begins to follow~~)) begins to follow a corrective plan of action ((~~or takes other action agreed to~~)) that has been approved by the department. Revenue from these fines must be deposited into the supplemental pension fund established under RCW 51.44.033.

((~~(3) The~~)) (ii) If the department of labor and industries finds a violation after an investigation pursuant to subsection (1)(a)(iv)(B) of this section or assesses or imposes any penalty pursuant to this section, the employer may appeal the department's finding or assessment of penalties according to the procedures under sections 12 through 14 of this act.

(7)(a) As resources allow, the department ((~~shall maintain for public inspection~~)) must make records of any civil penalties((~~,~~)) and administrative actions((~~,~~)) or license suspensions or revocations imposed on hospitals, or any notices of resolution under this section available to the public.

(b) The department must post hospital staffing plans, hospital staffing committee charters, and the semi-annual compliance reports required under RCW 70.41.420 on its website.

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

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

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

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

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

~~(5)~~)) (8) Nothing in this section shall be construed to preclude the ability to otherwise submit a complaint to the department for failure to follow RCW 70.41.420.

((~~(6) The department shall submit a report to the legislature on December 31, 2020. This report shall include the number of complaints submitted to the department under this section, the disposition of these complaints, the number of investigations conducted, the associated costs for complaint investigations, and recommendations for any needed statutory changes. The department shall also project, based on experience, the impact, if any, on hospital licensing fees over the next four years. Prior to the submission of the report, the secretary shall convene a stakeholder group consisting of the Washington state hospital association, the Washington state nurses association, service employees international union healthcare 1199NW, and united food and commercial workers 21. The stakeholder group shall review the report prior to its submission to review findings and jointly develop any legislative recommendations to be included in the report.~~

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

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

By July 1, 2024, the department and the department of labor and industries must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (4)(a) and (12) and 70.41.425 (1), (4), (5), (6)(b), and (7), as follows:

(1) To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and

(2) Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(8), and hospital staffing committee complaints submitted to the department.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

By July 1, 2024, the department and the department of health must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420(7) and 70.41.425 (1) and (5)(b), as follows:

(1) To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and

(2) Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(8), and hospital staffing committee complaints submitted to the department of health.

**Sec.**  RCW 70.41.130 and 2021 c 61 s 2 are each amended to read as follows:

(1) The department is authorized to take any of the actions identified in this section against a hospital's license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter or the requirements of RCW 71.34.375 on the basis of findings by the department of labor and industries under RCW 70.41.425(6)(b).

(a) When the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the hospital cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (3) of this section.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to $10,000 per violation, not to exceed a total fine of $1,000,000, on a hospital licensed under this chapter when the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to offset costs associated with licensing hospitals.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The number of licensed beds and the operation size of the hospital. The licensed hospital beds will be categorized as:

(I) Up to 25 beds;

(II) 26 to 99 beds;

(III) 100 to 299 beds; and

(IV) 300 beds or greater.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend a specific category or categories of services or care or recovery units within the hospital as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the hospital may not admit any new patients to the units in the category or categories subject to the limited stop service until the limited stop service order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the hospital by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the hospital.

(i) Prior to imposing a stop placement, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the hospital may not admit any new patients until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) The department shall adopt in rules under this chapter a fee methodology that includes funding expenditures to implement subsection (1) of this section. The fee methodology must consider:

(a) The operational size of the hospital; and

(b) The number of licensed beds of the hospital.

(3)(a) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

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

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

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

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

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

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

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

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

~~(c) For any rest break that is interrupted before ten complete minutes by an employer or employer's designee under the provisions of (b)(ii) of this subsection, the employee must be given an additional ten minute uninterrupted rest break at the earliest reasonable time during the work period during which the employee is required to receive a rest period. If the elements of this subsection are met, a rest break shall be considered taken for the purposes of the minimum wage act as defined by chapter 49.46 RCW.~~)) An unforeseeable clinical circumstance, as determined by the employee that may lead to a significant adverse effect on the patient's condition, unless the employer or employer's designee determines that the patient may suffer life-threatening adverse effects;

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

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

(b) The employer must provide a quarterly report to the department of the total meals and rest periods missed in violation of this section during the quarter covered by the report, and the total number of meals and rest periods required during the quarter. The reports are due to the department 30 calendar days after the conclusion of the calendar quarter.

(c) The provisions of (b) in this subsection (2) do not apply to hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2026.

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

(a) "Employee" means a person who:

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1) The department must enforce the provisions of RCW 49.12.480, including reviewing reports submitted under RCW 49.12.480(2) to ensure they are timely, complete, and on the department-issued form.

(2)(a) Upon the department's review of the employer's report due under RCW 49.12.480(2), if the department determines that 80 percent or less of meals and rest periods were not missed in violation of RCW 49.12.480, or if an employer fails to properly submit a report, the department may offer to provide technical assistance to the employer, although until June 30, 2026, the department must offer technical assistance to the employer.

(b) Beginning July 1, 2026, if the department finds that an employer has exceeded the quarterly threshold in (a) of this subsection for missed meals and rest periods, the department must impose a penalty. The provisions of this subsection do not apply to employers who are hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2028.

(c)(i) The penalties assessed by the department each time the department imposes a penalty under (b) of this subsection are as follows:

(A) For hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4, or with up to 25 licensed beds: $5,000;

(B) For hospitals with 26 to 99 licensed beds: $10,000;

(C) For hospitals with 100 to 299 beds: $15,000; and

(D) For hospitals with 300 or more beds: $20,000.

(ii) If the department imposes a penalty in a third consecutive quarter, the department must double the penalty amounts in (c)(i) of this subsection for subsequent consecutive quarters. An employer in compliance for a single quarter is no longer subject to the penalties for subsequent violations under this subsection (c)(ii).

(3)(a) An employer may not take any adverse action against employees for exercising any right under RCW 49.12.480. An adverse action means any action taken or threatened by an employer against an employee for exercising the employee's rights under RCW 49.12.480 or this section, but does not include noncoercive counseling, coaching, training, or other resources offered to an employee.

(b) The department must investigate complaints related to compliance with (a) of this subsection. The director may require the testimony of witnesses and the production of documents as part of the director's investigation.

(c) If the director determines that an employer has violated (a) of this subsection, the director may:

(i) Order payment to the department of a civil penalty of not more than $1,000 for an employer's first violation and not more than $5,000 for any subsequent related violation;

(ii) Order appropriate relief under this subsection (3) that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee; or

(iii) Order the employer to restore the employee to the position of employment held by the employee when the retaliation occurred, or restore the employee to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment.

(4)(a)(i) An employer must provide valid data in reports required under RCW 49.12.480(2). Valid data means that the data included in the reports is attested to by an employer's designee and has not been inappropriately manipulated or modified; and

(ii) Employees must be free from coercion into inaccurate recording of their meal and rest periods under RCW 49.12.480.

(b) The department must investigate complaints related to compliance with (a) of this subsection that are facially based on the actual knowledge of the complaining party. The director may require the testimony of witnesses and the production of documents as part of the director's investigation.

(c) If the director determines that an employer has violated (a) of this subsection, the director may:

(i) Order the employer to pay the department a civil penalty of not more than $1,000 for an employer's first violation and not more than $5,000 for any subsequent related violation; and

(ii) Order appropriate relief that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee.

(5) The department may investigate and take appropriate enforcement action under this section without any complaint if the department discovers data in the course of an investigation or inspection.

(6) Any appeals of the department's decisions, including assessed penalties, and collection or deposit of civil penalties under this section must be pursuant to sections 12 through 14 of this act.

(7) For the purposes of this section, "coercion" means compelling or inducing an employee to engage in conduct which the employee has a legal right to abstain from or to abstain from the conduct which the employee has a legal right to engage in.

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

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

(2) The acceptance by any employee of overtime is strictly voluntary, and the refusal of an employee to accept such overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.

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

(a) Because of any unforeseeable emergent circumstance;

(b) Because of prescheduled on-call time, subject to the following:

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

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

(iii) Mandatory, prescheduled on-call time may not be used to begin at a time when the duration of the procedure is expected to exceed the employee's regular scheduled hours of work, except for the case of a nonemergent patient procedure for which, in the judgment of the provider responsible for the procedure, a delay would cause a worse clinical outcome;

(c) When the employer documents that the employer has used reasonable efforts to obtain staffing. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or

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

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

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

The department of labor and industries shall investigate complaints of violations of RCW 49.28.140 and 70.41.420(9) as provided under sections 12 through 14 of this act. ((~~A violation of RCW 49.28.140 is a class 1 civil infraction in accordance with chapter 7.80 RCW, except that the maximum penalty is one thousand dollars for each infraction up to three infractions. If there are four or more violations of RCW 49.28.140 for a health care facility, the employer is subject to a fine of two thousand five hundred dollars for the fourth violation, and five thousand dollars for each subsequent violation. The department of labor and industries is authorized to issue and enforce civil infractions according to chapter 7.80 RCW.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1)(a) If a complainant files a complaint with the department of labor and industries alleging a violation of this chapter or RCW 70.41.420(9), the department shall investigate the complaint.

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

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

(d) The department shall send a citation and notice of assessment or the determination of compliance to both the employer and the complainant by service of process or using a method by which the mailing can be tracked, or the delivery can be confirmed to their last known addresses.

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

(3)(a) If the department of labor and industries finds a violation of this chapter, the department shall order the employer to pay the department a civil penalty.

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

(c) The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any of the requirements of this chapter; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (iii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b) of this subsection.

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

(5) The department of labor and industries shall deposit all civil penalties paid under this chapter in the supplemental pension fund established under RCW 51.44.033.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1) A person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance by the department of labor and industries under section 12 of this act may appeal the citation and notice of assessment to the director of the department by filing a notice of appeal with the director within 30 days of the department's issuance of the citation and notice of assessment. A citation and notice of assessment or a determination of compliance not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director of the department of labor and industries under this section shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director of the department of labor and industries shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director shall conduct administrative review in accordance with chapter 34.05 RCW.

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

Collections of unpaid citations assessing civil penalties under sections 11 through 13 of this act will be pursuant to RCW 49.48.086.

NEW SECTION. **Sec.**  The Washington state institute for public policy shall conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants.

(1) The institute must review current and historical staffing plans filed with the department of health under chapter 70.41 RCW and describe:

(a) Timeliness and completeness of filed forms;

(b) Format of filed forms;

(c) Patient care unit nursing staff assignments related to the maximum number of patients to which a direct care nursing or nursing assistant may be assigned;

(d) Descriptive statistics on submissions by hospital unit type;

(e) Trends over time, if any;

(f) Legal minimum staffing standards for registered nurses and nursing assistants in other jurisdictions; and

(g) Relevant professional association guidance, recommendations, or best practices.

(2) The department of health shall cooperate with the institute to facilitate access to data or other resources necessary to complete the analysis required under this section.

(3) The institute must provide a report on its findings to the department and relevant committees of the legislature by June 30, 2024.

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

NEW SECTION. **Sec.**  Except for sections 1, 3, 15, and 16 of this act, this act takes effect July 1, 2024.

NEW SECTION. **Sec.**  Section 16 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2023."

**2SSB 5236** - S AMD **180**

By Senator Mullet

**ADOPTED AS AMENDED 03/06/2023**

On page 1, line 1 of the title, after "Relating to;" strike the remainder of the title and insert "improving workplace standards for certain hospital staff by expanding staffing committees to include additional nursing staff, modifying staffing committee requirements, and clarifying standards and enforcement regarding mandatory overtime and uninterrupted meal and rest breaks; amending RCW 70.41.410, 70.41.420, 70.41.425, 70.41.130, 49.12.480, 49.28.140, and 49.28.150; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; adding new sections to chapter 49.12 RCW; creating a new section; repealing 2017 c 249 s 4 (uncodified); prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency."

EFFECT: Modifies the title. Removes the creation of a new chapter in Title 49 RCW and corresponding recodifications. Removes the four nonvoting ex officio members from the advisory committee. Removes the provision allowing the advisory committee to consult on rule making. Requires the advisory committee, after July 1, 2029, to discuss the applicability of the staffing plan reporting requirements to hospitals excluded from those requirements under the bill. Requires the advisory committee to advise the department of labor and industries (L&I) on the development of the meal and rest breaks reporting form.

Removes the 90-day limitation for both the reasonable efforts and unforeseen emergent circumstance exceptions. Adds when a hospital is diverting patients to another hospital to the definition of unforeseen emergent circumstances. Modifies the process by which a proposed staffing plan is delivered and reviewed by the hospital's chief executive officer. Requires delivery of the first proposed staffing plan by July 1, 2024, rather than January 1, 2025. Provides that if a revised staffing plan is not adopted by the hospital, the most recent of the following remains in effect: The staffing plan in effect on January 1, 2023, or the staffing plan last approved by a 50 percent plus one vote of the staffing committee. Requires the submission of a final staffing plan by January 1, 2025, rather than July 1, 2025.

Requires reporting of noncompliance to the staffing plan to only the department of health (DOH), rather than both DOH and L&I. Modifies the exclusions to the compliance reporting requirements to exclude: Critical access hospitals; hospitals with fewer than 25 acute care licensed beds; certain sole community hospitals; and hospitals located on an island within a public hospital district in Skagit county. Removes certain references to patient care staffing. Requires the staffing committee to review all written complaints, rather than all complaints. Requires, in the event of an unforeseen emergent circumstance, the hospital to report to DOH within 90 days of the initial deviation from the staffing plan and the basis for the deviation, as well as once the deviation is no longer in effect. Requires the submission of the charter by July 1, 2024, rather than January 1, 2025. Modifies what the charter must include. Provides that DOH investigates complaints related to failing to form a staffing committee or staffing plan and both DOH and L&I investigate complaints for failing to follow staff assignments per the formal agreement between the agencies. Limits investigations to complaints that remain unresolved by the staffing committee for 60 days. Provides that the agencies must require a corrective plan of action if they determine there has been multiple unresolved violations of a similar nature within the 30 days prior to receipt of the complaint. Provides that a hospital will not be found in violation of the staffing plan requirements if an individual admission of a patient in need of critical care to sustain their life or prevent disability received from another hospital caused the staffing plan violation. Requires L&I and DOH, per their formal agreement, to review and approve corrective plans of action, and allows the agencies to request revisions if a corrective plan of action is followed but the hospital remains under 80 percent compliant with the staffing plan. Modifies what a corrective plan of action may include.

Requires DOH and L&I to establish their formal agreement by July 1, 2024. Allows DOH to act under its current authority against a hospital's license on the basis of findings by L&I that a hospital failed to follow a corrective plan of action.

Requires hospitals to provide a quarterly report to L&I of the total meal and rest periods missed. Excludes the hospitals excluded from the staffing plan compliance report from the meal and rest break report. Requires L&I to enforce the meal and rest break requirements and the required reports. Requires L&I, until June 30, 2026, to provide technical assistance to hospitals with below an 80 percent compliance rate with meal and rest breaks, with the technical assistance becoming permissive after that date. Requires L&I, beginning July 1, 2026, to impose a penalty for missed meal and rest breaks for employers that exceed the threshold for missed meal and rest breaks. Establishes penalties for meal and rest break violations based on the number of beds in the hospital, ranging from $5,000 to $20,000. Requires the doubling of penalties for violations in three consecutive quarters. Prohibits retaliation against employees for exercising rights granted by the meal and rest break requirements and imposes penalties for retaliation. Requires employers to provide valid data and prohibits coercing employees into inaccurate recording of meal and rest breaks. Removes the changes to the definitions for the purposes of the mandatory overtime provisions. Removes the cap on prescheduled on-call time. Provides that prescheduled on-call time may not be used to begin at a time when the duration of the procedure that is expected to exceed the employee's regular scheduled hours of work, except for nonemergent patient procedures for which, in the judgment of the provider, a delay would cause a worse clinical outcome. Requires L&I to investigate complaints of retaliation in relation to staffing committee activities and establishes procedures for citations and notices of assessment and penalties for retaliation, as well as procedures for appealing citations. Prohibits L&I from assessing a civil penalty if the employer reasonably relied on a rule, written order, or an interpretive or administrative policy issued by L&I.