
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1033 Session of
2009

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WATSON, WHEATLEY AND YUDICHAK, MARCH 19, 2009

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, MARCH 19,
2009

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
2 act relating to health care; prescribing the powers and
3 duties of the Department of Health; establishing and
4 providing the powers and duties of the State Health
5 Coordinating Council, health systems agencies and Health Care
6 Policy Board in the Department of Health, and State Health
7 Facility Hearing Board in the Department of Justice;
8 providing for certification of need of health care providers
9 and prescribing penalties," providing for professional nurse
10 safe staffing standards.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
14 as the Health Care Facilities Act, is amended by adding a
15 chapter to read:

16 CHAPTER 8-A

17 PROFESSIONAL NURSE SAFE STAFFING STANDARDS

18 Section 801-A. Scope.

19 This chapter relates to professional nurse staffing standards

1 in a general or special hospital, or ambulatory surgical
2 facility that will ensure patient safety and the delivery of
3 quality health care to patients.

4 Section 802-A. Definitions.

5 For the purposes of this chapter, following words and phrases
6 when used in this chapter shall have the meanings given to them
7 in this section unless the context clearly indicates otherwise:

8 "Acuity system." A measurement system that is based on
9 scientific data and compares the registered nurse staffing level
10 in each nursing department or unit against actual nursing care
11 requirements of each patient, taking into consideration the
12 health care workforce on duty and available to work appropriate
13 to their level of training or education, in order to predict
14 registered nursing direct-care requirements for individual
15 patients based on the severity of patient illness. The system
16 shall be both practical and effective in terms of hospital
17 implementation.

18 "Direct-care registered nurse." A registered nurse who has
19 accepted direct responsibility and accountability to carry out
20 medical regimens, nursing or other bedside care for patients.

21 "Direct patient care." Care provided by a nurse with direct
22 responsibility to carry out medical regimens or nursing care for
23 one or more patients.

24 "Health care facility." A general or special hospital, or
25 ambulatory surgical facility.

26 "Health care worker." An employee, independent contractor,
27 licensee or other individual authorized to provide services in a
28 medical facility.

29 "Patient safety officer." An individual designated by a
30 medical facility under section 309 of the act of March 20, 2002

1 (P.L.154, No.13), known as the Medical Care Availability and
2 Reduction of Error (Mcare) Act.

3 "Professional nurse." Any person who holds a license to
4 practice professional nursing under the act of December 20, 1985
5 (P.L.409, No.109), known as the Professional Nursing Law.

6 "Safe staffing plan" or "plan." The professional nurse safe
7 staffing plan established under section 806-A.

8 "Safe staffing committee" or "committee." The professional
9 nurse safe staffing committee established under section 804-A.
10 Section 803-A. Development of professional nurse safe staffing
11 standards.

12 A health care facility shall develop, validate and implement
13 a professional nurse safe staffing plan for the purpose of
14 ensuring the health and safety of patients. The plan shall be
15 developed internally by a Professional Nurse Safe Staffing
16 Committee established under section 804-A which shall include as
17 members professional nurses providing direct care to patients in
18 the facility.

19 Section 804-A. Professional Nurse Safe Staffing Committee.

20 (a) Establishment.--A health care facility shall establish a
21 Professional Nurse Safe Staffing Committee no later than 60 days
22 following the effective date of this chapter. The committee
23 shall meet at least three times per year.

24 (b) Membership.--Members of the committee shall include the
25 chief nursing officer, a member of the medical staff and the
26 patient safety officer if the facility has designated one. At
27 least 50% of the individuals selected to serve on the committee
28 shall consist of professional nurses who provide direct patient
29 care in the facility. Selection of professional nurses to the
30 committee shall be made in a manner to ensure adequate committee

1 representation of all the types of nursing care provided in the
2 facility.

3 (c) Existing committees.--Any committee or other similar
4 group established by a health care facility to engage in issues
5 related to nurse staffing standards prior to the effective date
6 of this chapter shall be required to conform to the provisions
7 of this chapter within 60 days of its effective date.

8 Section 805-A. Duties and responsibilities of committee.

9 The committee shall have the following duties and
10 responsibilities:

11 (1) Develop and adopt a plan prescribed in section 806-A
12 no later than 120 days following the enactment of this
13 chapter.

14 (2) Evaluate the plan on an ongoing basis by collecting
15 nursing-sensitive indicators including:

16 (i) Patient falls.

17 (ii) Pressure ulcers.

18 (iii) Staff mix.

19 (iv) Hours per patient day.

20 (v) Nursing staff satisfaction.

21 (vi) Patient satisfaction with:

22 (A) Nursing care.

23 (B) Overall care.

24 (C) Pain management.

25 (D) Patient education.

26 (vii) Turnover and vacancy rates.

27 (viii) Overtime use.

28 (ix) Use of supplemental staffing.

29 (x) Musculoskeletal injuries.

30 (xi) Flexibility of human resource policies and

1 benefit packages.

2 (xii) Evidence of compliance with Federal, State and
3 local regulations.

4 (xiii) Levels of nurse staff satisfaction.

5 (3) Revise the plan as it affects each inpatient unit
6 based on the most recent evaluation of the plan, if
7 necessary.

8 (4) Develop or adopt a patient acuity system containing,
9 at a minimum, the standards set forth in section 807-A.

10 (5) Receive reports from the patient safety officer or
11 other designated person under section 809-A.

12 (6) Ensure the investigation of all reports of any
13 noncompliance with the plan, and take such action as is
14 immediately necessary to ensure compliance.

15 (7) Annually report to the administrative officer and
16 governing body of the health care facility regarding the
17 effectiveness of the plan and any revisions made to the plan.

18 (8) Establish a mechanism for obtaining input from
19 professional nurses in all inpatient care units who provide
20 direct patient care for the purpose of developing, reviewing
21 and revising the plan.

22 Section 806-A. Professional nurse safe staffing plan.

23 (a) Establishment.--A plan shall be established for each
24 inpatient unit. The plan shall be, at a minimum, consistent with
25 current staffing standards established by health accreditation
26 organizations or national professional nursing organizations.

27 (b) Guidelines.--The plan shall be based on nursing and
28 patient factors that yield appropriate staffing levels to ensure
29 that the health care facility has a staff of competent
30 professional nurses with specialized skills needed to meet

1 patient needs. The factors to be considered shall include but
2 not be limited to:

3 (1) The characteristics of the nursing staff including,
4 at a minimum, staff consistency, skill mix, preparation and
5 clinical experience and the competency of clinical and
6 nonclinical support staff the nurse must collaborate with or
7 supervise.

8 (2) Patient acuity as determined by the health care
9 facility's patient acuity system under section 807-A.

10 (3) Patient volume.

11 (4) Unit activity, including the amount of time needed
12 for patient education, ongoing physical assessments, new
13 admissions, discharges and transfers.

14 (5) The physical environment in which care is provided
15 including the physical architecture of each unit, patient
16 location and available technology of the health care
17 facility.

18 (c) Reporting system.--The plan shall also contain
19 information informing health care workers about the confidential
20 reporting system established by the department under section
21 809-A for the reporting of any occurrence of noncompliance with
22 the staffing requirements of the plan.

23 Section 807-A. Patient acuity system.

24 Every health care facility shall be required to adopt and
25 utilize a patient acuity system that shall include the following
26 standards:

27 (1) The availability of specialized equipment and
28 technology.

29 (2) The number of patients requiring care.

30 (3) The level of intensity of nursing interventions

1 required and the complexity of clinical nursing judgment
2 needed to design, implement and evaluate the nursing care
3 plan for each patient that is consistent with professional
4 standards of care.

5 (4) The amount of nursing care needed, both in number of
6 direct-care professional nurses and skill mix of nursing
7 personnel required on a daily basis for each unit, the
8 proximity of patients, the proximity and availability of
9 other resources, facility design and personnel that have an
10 effect upon the delivery of quality patient care.

11 (5) Patient care services provided by professional
12 nurses and licensed practical nurses and other health care
13 personnel.

14 Section 808-A. Duties and responsibilities of health care
15 facility.

16 For purposes of this chapter, a health care facility shall
17 have the following duties and responsibilities:

18 (1) Within 30 days from the date on which the committee
19 adopts its initial plan following the effective date of this
20 chapter, and no later than November 1 of each year
21 thereafter, validate the adopted plan and patient acuity
22 system along with a written certification by its Chief
23 Nursing Officer that the plan is sufficient to provide
24 adequate and appropriate delivery of health care services to
25 patients for the ensuing year.

26 (2) Provide copies of its plan in accordance with each
27 of the following:

28 (i) Each professional nurse working within a
29 facility shall receive a copy of the plan for each unit
30 to which the nurse is assigned.

1 (ii) Except as prescribed in subparagraph (i), a
2 copy of the plan shall be provided to any person who
3 requests it for a fee not to exceed the actual copying
4 cost incurred by the facility.

5 (3) Post a notice in a conspicuous location within the
6 facility informing the general public of the availability of
7 the plan. The notice shall specify the appropriate person,
8 office or department to be contacted to review or obtain a
9 copy of the plan.

10 (4) Prohibit any retaliatory action against a health
11 care worker for reporting a violation of this chapter in
12 accordance with the act of December 12, 1986 (P.L.1559,
13 No.169), known as the Whistleblower Law.

14 Section 809-A. Reporting and whistleblower protection.

15 (a) General rule.--A person who reasonably believes that the
16 health care facility is not in compliance with the professional
17 nurse staffing levels in the facility's plan shall immediately,
18 or as soon thereafter as reasonably practicable, report the
19 violation to the patient safety officer, who shall submit a
20 report of the alleged violation to the committee. If the
21 facility does not employ a patient safety officer, an
22 appropriate person shall be designated by the committee to
23 handle the reports.

24 (b) Procedure.--A person who has complied with subsection
25 (a) may file an anonymous report regarding a violation of the
26 plan with the department. Upon receipt of the report, the
27 department shall give notice to the affected health care
28 facility that a report has been filed, and require the facility
29 to take whatever action is necessary to become compliant with
30 the plan. The health care facility shall provide the department

1 with a statement describing the actions taken no later than 30
2 days after receiving notice under this subsection. At any time
3 the department deems necessary, the department may conduct its
4 own review and investigation of the report to ensure that the
5 facility is in compliance with the plan.

6 (c) Protection.--A health care facility shall not
7 discriminate or take retaliatory action against a health care
8 worker or any other person who discloses a policy or practice of
9 the facility that an employee or person believes violates this
10 chapter. Discriminating or retaliatory actions shall include
11 discharge of employment, suspension, demotion, harassment,
12 denial of employment or promotion, layoff of nursing staff or
13 other adverse action.

14 Section 810-A. Powers and duties of the Department of Health.

15 For purposes of this chapter, the Department of Health shall
16 have the power and its duties shall be:

17 (1) To adopt and promulgate any regulations necessary to
18 carry out the purposes and provisions of this chapter.

19 (2) To establish a confidential reporting system under
20 section 809-A(a) and inform each health care facility about
21 the reporting system.

22 (3) To review and investigate as necessary any reported
23 violations of this chapter.

24 Section 811-A. Penalties.

25 In addition to any penalty which may be imposed under this
26 act, a health care facility which fails to comply with any
27 provision of this chapter may be subject to an administrative
28 penalty of \$1,000 per day imposed by the department.

29 Section 2. This act shall take effect in 60 days.