
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 784 Session of
2019

INTRODUCED BY MARSHALL, MURT, MILLARD, FRANKEL AND DeLUCA,
MARCH 11, 2019

REFERRED TO COMMITTEE ON HEALTH, MARCH 11, 2019

AN ACT

1 Providing for the compilation of daily nursing staff reports by
2 hospitals, for public posting of reports and for reporting to
3 the Department of Health; and imposing duties on the
4 Department of Health.

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4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Hospital
10 Nursing Staff Report Card Act.

11 Section 102. Purpose.

12 The General Assembly finds and declares as follows:

13 (1) The purpose of this act is to provide the public
14 information about nurse staffing practices in hospitals in
15 this Commonwealth so that patients can make informed
16 decisions about their choices of health care providers.

17 (2) Information on nurse staffing levels, including the
18 nurse staffing plan, which contains the number of registered
19 nurses, licensed practical nurses, certified nursing
20 assistants and unlicensed assistive personnel on duty, should
21 be made available to the public in recognition of the fact
22 that hospital caregivers contribute to improved patient
23 safety and health care outcomes.

24 Section 103. Definitions.

25 The following words and phrases when used in this act shall
26 have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Actual hours worked." The actual hours worked by a nurse
29 providing direct patient care during any portion of the nurse's
30 shift. The term includes a nurse's fifteen-minute breaks. The

1 term does not include meal breaks, benefit time, vacation,
2 medical leave, orientation, education or committee time.

3 "Department." The Department of Health of the Commonwealth.

4 "Direct care nurse" and "direct care nursing staff." A unit-
5 based registered nurse, licensed practical nurse or certified
6 nursing assistant with direct responsibility to oversee or carry
7 out medical regiments or nursing care for one or more patients.
8 The term does not include caseworkers, educators or nurse
9 specialists, including a stoma nurse specialist, cardiac
10 rehabilitation nurse or wound care nurse, who concentrates on
11 only one facet of a patient's care and who interacts with
12 multiple patients in various hospital units.

13 "Hospital." A health care facility licensed under the act of
14 July 19, 1979 (P.L.130, No.48), known as the Health Care
15 Facilities Act. The term includes critical access and long-term
16 acute care hospitals in both the private and public sector.

17 "Long-term acute care hospital." A hospital or health care
18 facility that specializes in providing acute care to medically
19 complex patients with an anticipated length of stay of more than
20 25 days. The term includes a free-standing and a hospital-
21 within-hospital model long-term acute care facility.

22 "Nursing care." A care service that falls within the scope
23 of practice provided in the act of May 22, 1951 (P.L.317,
24 No.69), known as The Professional Nursing Law, or is otherwise
25 encompassed within recognized professional standards of nursing
26 practice, including assessment, nursing diagnosis, planning,
27 intervention, evaluation, patient teaching, discharge planning
28 and patient advocacy.

29 "Overflow." When the volume of patients outnumber the beds
30 of a licensed unit and the beds in another licensed unit are

1 used for those patients.

2 "Patient care unit." A unit within a hospital that:

3 (1) is a specific geographical or physical location
4 within the hospital;

5 (2) is designated a specific cost center; or

6 (3) provides clinical services by a generic class of
7 levels of support functions, equipment, care or treatment
8 provided to patients.

9 "Shift." A standardized reporting period based upon the
10 actual standard of scheduling shifts common to the hospital to
11 be reported as either three eight-hour periods, consisting of
12 morning, evening and night periods, or two 12-hour periods,
13 consisting of day and night. The emergency room and the
14 postanesthesia care unit, in those hospitals where the
15 postanesthesia care unit is open 24 hours daily, shall report a
16 24-hour shift.

17 "Sitters." Companions to patients at high risk of falls,
18 suicide or other conditions.

19 "Turnover rate." The percentage of direct care nursing staff
20 that leaves a unit, either voluntarily or involuntarily.

21 "Unlicensed assistive personnel." An unlicensed individual
22 who is trained to function in an assistive role to a licensed
23 nurse in the provision of patient or client activities as
24 delegated by the nurse.

25 CHAPTER 2

26 NURSING STAFF REPORTING

27 Section 201. Nursing staff report.

28 (a) General rule.--A hospital shall compile a daily report
29 on each patient care unit and shift containing the following
30 information:

1 (1) The number of each of the following types of staff
2 per four-hour time period providing direct patient care:

- 3 (i) Registered nurses.
- 4 (ii) Licensed practical nurses.
- 5 (iii) Certified nursing assistants.
- 6 (iv) Unlicensed personnel.

7 (2) The relative number of patients to each of the
8 following types of staff:

- 9 (i) Registered nurses.
- 10 (ii) Licensed practical nurses.
- 11 (iii) Certified nursing assistants.
- 12 (iv) Unlicensed personnel.

13 (3) The current direct care nurse staffing schedule and
14 assignment roster.

15 (4) The availability, by number of hours on the shift,
16 that a unit clerk or unit secretary is available exclusively
17 for the specified patient care unit.

18 (5) Whether patients requiring scheduled or emergency
19 respiratory treatments have had treatments that were
20 administered by a respiratory therapist or the direct care
21 nursing staff of the unit.

22 (6) Percentage of temporary or agency nurses who are
23 employed by an outside entity included in the shift staff.

24 (7) The methods used by the hospital for determining and
25 adjusting staffing levels.

26 (8) The registered nurse, licensed practical nurse and
27 certified nursing assistant turnover rate for the previous
28 month.

29 (9) The number and types of complaints under the act of
30 June 10, 2009 (P.L.1, No.1), known as the Preventable Serious

1 Adverse Events Act, filed with the hospital concerning
2 patient care for the previous month.

3 (b) Reporting method.--The report required under subsection
4 (a) shall be compiled as follows:

5 (1) For each patient care unit, a hospital shall count
6 the number of patients and direct care nursing staff based on
7 hours worked for each category of direct care nursing staff,
8 excluding other licensed health care professionals, one hour
9 before the end of each shift.

10 (2) For each emergency department, a hospital shall
11 count the number of patients registered during the four-hour
12 shift and the number of direct care nursing staff based on
13 hours worked for each category of direct care nursing staff,
14 excluding other licensed health care professionals, one hour
15 before the end of each shift.

16 (3) For each postanesthesia care unit, a hospital shall
17 count the number of patients that were in the postanesthesia
18 care unit during the shift and the number of direct care
19 nursing staff, based on hours worked for each category of
20 direct care nursing staff, excluding other licensed health
21 care professionals, one hour before the end of each shift.

22 (4) For each mother and baby unit, a hospital shall
23 report direct care nursing staff hours under the obstetrics
24 unit, not the newborn nursery. A mother and baby should each
25 be reported as a separate patient.

26 (5) For each psychiatric and behavioral unit, licensed
27 mental health counselors, activity therapists and
28 recreational therapists providing direct patient care shall
29 be considered as licensed practical nurses. Staffing hours
30 for unlicensed mental health technicians or other unlicensed

1 personnel will be included as unlicensed personnel hours.

2 (6) Graduate nurses who participate in an internship
3 program shall not be included in determining the relative
4 number of patients to direct care nursing staff, except
5 orientee or graduate nurse hours shall be included when the
6 graduate nurse has completed the designated time-defined
7 orientation and reaches the point where the graduate nurse is
8 considered part of the staff matrix, the graduate nurse's
9 work hours are charged to the unit and the graduate nurse is
10 replaced if the nurse calls in sick.

11 (7) When a direct care nurse works beyond the nurse's
12 shift into the next shift, the actual hours should be
13 included in the daily posting forms for all shifts that the
14 nurse worked.

15 (8) Hospital management and support staff who do not
16 provide direct patient care may not be included in the daily
17 reporting forms.

18 (9) Sitters, including registered nurses acting as
19 sitters, will be considered unlicensed assistive personnel
20 only if they provide other direct patient care in addition to
21 observation. Sitters providing only companion service may not
22 be included in the actual hours worked for unlicensed
23 assistive personnel.

24 (10) When overflow beds are used for patients, the
25 patients shall be included in the daily report of the patient
26 care unit where the patient is receiving care.

27 (11) The staff relative number reporting shall be to one
28 decimal point. If a hospital patient care unit does not have
29 a direct care nursing staff for a particular category, a zero
30 should be entered on the report for that staff category.

1 Section 202. Posting.

2 A hospital shall post the report required under section 201
3 as follows:

4 (1) The report, with respect to each shift, shall be
5 posted no later than one hour after the beginning of the next
6 shift.

7 (2) The report shall be prominently displayed in a
8 location visible to the public on the patient unit.

9 (3) The report shall be easily readable in its posted
10 form.

11 Section 203. Submission of report to department.

12 A hospital shall submit the daily reports for the previous
13 month to the department no later than the 15th day of each
14 month.

15 Section 204. Retention of records.

16 All daily reports and records required to compile the report
17 under section 201 shall be retained by the hospital for a period
18 of five years and be posted on the hospital's publicly
19 accessible Internet website.

20 Section 205. Divisions and subsidiaries.

21 If a hospital is a division or subsidiary of another entity
22 that owns or operates another hospital or related organizations,
23 the report under section 201 shall be for the specific division
24 or subsidiary and not for another entity.

25 Section 206. Whistleblower protection.

26 (a) General rule.--A hospital shall not discriminate,
27 retaliate, intimidate, threaten or punish an employee with
28 respect to compensation or the terms, conditions or privileges
29 of employment when the employee in good faith, individually or
30 in conjunction with another person, does any of the following:

1 (1) Discloses to a nursing staff supervisor or manager,
2 private accreditation organization, nurse's collective
3 bargaining agent or regulatory agency, an activity, policy or
4 practice of a hospital that violates this act or other law or
5 rule or that the employee believes poses a risk to the
6 health, safety or welfare of a patient or the public.

7 (2) Initiates, cooperates or otherwise participates in
8 an investigation or proceeding brought by a regulatory agency
9 or private accreditation body concerning matters covered by
10 this act or a law or rule that the employee reasonably
11 believes poses a risk to the health, safety or welfare of a
12 patient or the public.

13 (3) Objects or refuses to participate in an activity,
14 policy or practice of a hospital that violates this act or a
15 law or rule the department or a reasonable person would
16 believe poses a risk to the health, safety and welfare of a
17 patient or the public.

18 (4) Participates in a committee or peer review process
19 or files a report of complaint that discusses allegations of
20 unsafe, dangerous or potentially dangerous care within a
21 hospital.

22 (b) Employee good faith.--An employee is presumed to act in
23 good faith if the employee reasonably believes the following:

24 (1) The information reported or disclosed is true.

25 (2) A staffing violation has occurred or may occur.

26 (c) Notice to hospital.--

27 (1) The protection under subsection (a) shall not apply
28 to an employee unless the employee gives written notice to a
29 direct nursing supervisor or direct nursing manager of the
30 activity, policy, practice or violation that the employee

1 believes poses a risk to the health of a patient or the
2 public and provides the manager a reasonable opportunity to
3 correct the problem.

4 (2) The direct nursing supervisor or direct nursing
5 manager shall respond in writing to the employee within seven
6 days to acknowledge that the notice was received. The direct
7 nursing supervisor or direct nursing manager shall provide
8 written notice of an action taken within a reasonable time of
9 receiving the employee's notice.

10 Section 207. Forms.

11 The department shall develop standardized reporting forms to
12 be used in all hospitals for reporting under this act.

13 Section 208. Quarterly reports.

14 (a) General rule.--The department shall produce a quarterly
15 report for each hospital that shows the average direct care
16 nurse staffing levels for each unit for a three-month period as
17 follows:

18 (1) Relative number of patients to staff for each type
19 of patient care unit.

20 (2) Turnover rate for direct care nursing staff.

21 (3) Percentage of contractual direct care nursing staff
22 utilized.

23 (4) Daily numbers of direct care nursing staff and
24 patients in the emergency department.

25 (5) Daily number of nonregistered nurse health care
26 practitioners.

27 (b) Posting.--The quarterly reports produced by the
28 department shall be made available to the public on the same
29 publicly accessible Internet website as the quality control
30 measures reporting for health care facilities. The department

1 shall post quarterly reports January 31, April 30, July 31 and
2 October 31 of each year. The data in the quarterly reports must
3 cover a period ending not earlier than one month prior to
4 submission of the report.

5 Section 209. Monitoring.

6 The department shall be responsible for monitoring the
7 reports from all hospitals in this Commonwealth for variances
8 between periods and to compare the reports to the reported
9 quality control measures to determine if there are correlations
10 or deficiencies in the quality control measures.

11 Section 210. Compliance by hospitals.

12 The department shall be responsible for ensuring compliance
13 with this act as a condition of licensure under the act of July
14 19, 1979 (P.L.130, No.48), known as the Health Care Facilities
15 Act, and shall enforce compliance in accordance with the
16 provisions of the Health Care Facilities Act.

17 CHAPTER 3

18 MISCELLANEOUS PROVISIONS

19 Section 301. Effective date.

20 This act shall take effect in 90 days.