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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1081 Session of  
2015

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INTRODUCED BY FONTANA, BLAKE, COSTA, LEACH, TEPLITZ AND  
SABATINA, DECEMBER 17, 2015

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REFERRED TO PUBLIC HEALTH AND WELFARE, DECEMBER 17, 2015

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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.

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

7 CHAPTER 1

8 GENERAL PROVISIONS

9 Section 101. Short title.

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

12 Section 102. Purpose.

13 The General Assembly finds and declares as follows:

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

18 (2) Decades of nursing research demonstrate that unsafe  
19 nurse staffing practices have resulted in adverse patient

1 outcomes.

2 (3) Information on nurse staffing levels, such as nurse-  
3 to-patient ratios, should be made available to the public in  
4 recognition of the fact that hospital caregivers contribute  
5 to improved patient safety and health care outcomes.

6 Section 103. Definitions.

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

10 "Actual hours worked." The actual hours worked by a nurse  
11 providing direct patient care during any portion of the nurse's  
12 shift. The term includes a nurse's fifteen-minute breaks. The  
13 term does not include meal breaks, benefit time, vacation,  
14 medical leave, orientation, education or committee time.

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

16 "Direct care nurse" and "direct care nursing staff." A unit-  
17 based registered nurse, licensed practical nurse or certified  
18 nursing assistant with direct responsibility to oversee or carry  
19 out medical regiments or nursing care for one or more patients.  
20 The term does not include caseworkers, educators or nurse  
21 specialists, such as a stoma nurse specialist, cardiac  
22 rehabilitation nurse or wound care nurse, who concentrates on  
23 only one facet of a patient's care and who interacts with  
24 multiple patients in various hospital units.

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

29 "Long-term acute care hospital." A hospital or health care  
30 facility that specializes in providing acute care to medically

1 complex patients with an anticipated length of stay of more than  
2 25 days. The term includes a free-standing and a hospital-  
3 within-hospital model long-term acute care facility.

4 "Nursing care." A care service that falls within the scope  
5 of practice set forth in the act of May 22, 1951 (P.L.317,  
6 No.69), known as The Professional Nursing Law, or is otherwise  
7 encompassed within recognized professional standards of nursing  
8 practice, including assessment, nursing diagnosis, planning,  
9 intervention, evaluation, patient teaching, discharge planning  
10 and patient advocacy.

11 "Overflow." When the volume of patients outnumbers the beds  
12 of a licensed unit and the beds in another licensed unit are  
13 used for those patients.

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

15 (1) is a specific geographical or physical location  
16 within the hospital;

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

18 (3) provides clinical services by a generic class of  
19 levels of support functions, equipment, care or treatment  
20 provided to inpatients.

21 "Retaliate." To discipline, discharge, suspend, harass, deny  
22 employment or promotion, lay off or take any other adverse  
23 action.

24 "Shift." A standardized reporting period based upon the  
25 actual standard of scheduling shifts common to the hospital to  
26 be reported as either three eight-hour periods, consisting of  
27 morning, evening and night periods, or two twelve-hour periods,  
28 consisting of day and night. The emergency room and the post-  
29 anesthesia care unit, in those hospitals where the post-  
30 anesthesia care unit is open twenty-four hours daily, shall

1 report a twenty-four hour shift.

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

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

6 CHAPTER 2

7 NURSING STAFF REPORTING

8 Section 201. Nursing staff report.

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

12 (1) The number of each of the following types of staff  
13 providing direct patient care:

- 14 (i) Registered nurses.
- 15 (ii) Licensed practical nurses.
- 16 (iii) Certified nursing assistants.
- 17 (iv) Unlicensed personnel.

18 (2) The ratio of patients to each of the following types  
19 of staff:

- 20 (i) Registered nurses.
- 21 (ii) Licensed practical nurses.
- 22 (iii) Certified nursing assistants.
- 23 (iv) Unlicensed personnel.

24 (3) The current direct care nurse staffing schedule and  
25 assignment roster.

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

29 (5) Whether patients requiring scheduled or emergency  
30 respiratory treatments have had treatments that were

1 administered by a registered respiratory therapist or the  
2 direct care nursing staff of the unit.

3 (6) Percentage of contractual nurses included in the  
4 shift staff.

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

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

10 (9) The number and types of complaints filed with the  
11 hospital concerning patient care for the previous month.

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

14 (1) For each inpatient unit, a hospital shall count the  
15 number of patients and direct care nursing staff based on  
16 hours worked for each category of direct care nursing staff,  
17 excluding other licensed health care professionals, one hour  
18 before the end of each shift.

19 (2) For each emergency department, a hospital shall  
20 count the number of patients registered during the shift and  
21 the number of direct care nursing staff based on hours worked  
22 for each category of direct care nursing staff, excluding  
23 other licensed health care professionals, one hour before the  
24 end of each shift.

25 (3) For each post-anesthesia care unit, a hospital shall  
26 count the number of patients that were in the post-anesthesia  
27 care unit during the shift and the number of direct care  
28 nursing staff, based on hours worked for each category of  
29 direct care nursing staff, excluding other licensed health  
30 care professionals, one hour before the end of each shift.

1           (4) For each mother and baby unit, hospitals shall  
2 report direct care nursing staff hours under the obstetrics  
3 unit, not the newborn nursery. A mother and baby should each  
4 be reported as a separate patient.

5           (5) For each psychiatric and behavioral unit, licensed  
6 mental health counselors, activity therapists and  
7 recreational therapists providing direct patient care shall  
8 be classified as licensed practical nurses. Staffing hours  
9 for unlicensed mental health technicians or other unlicensed  
10 personnel will be included as unlicensed personnel hours.

11           (6) Graduate nurses who participate in an internship  
12 program shall not be included in determining the ratio of  
13 patients to direct care nursing staff, except orientee or  
14 graduate nurse hours shall be included when the graduate  
15 nurse reaches the point where the graduate nurse is  
16 considered part of the staff matrix, the graduate nurse's  
17 work hours are charged to the unit and the graduate nurse is  
18 replaced if the nurse calls in sick.

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

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

26           (9) Sitters will be considered unlicensed assistant  
27 personnel only if they provide other direct patient care in  
28 addition to observation. Sitters providing only companion  
29 service may not be included in the actual hours worked for  
30 unlicensed assistant personnel.

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

4 (11) The staff ratio reporting shall be to one decimal  
5 point. If a hospital patient care unit does not have any  
6 direct care nursing staff for a particular category, a zero  
7 should be entered on the report for that staff category.

8 Section 202. Posting.

9 A hospital shall post the report required under section 201  
10 as follows:

11 (1) The report shall be posted no later than one hour  
12 after the beginning of a shift with respect to each shift.

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

15 (3) The report shall be easily readable in its posted  
16 form.

17 Section 203. Submission of report to department.

18 A hospital shall submit the daily reports for the previous  
19 month to the department no later than the 15th day of each  
20 month.

21 Section 204. Retention of records.

22 All daily reports and records required to compile the report  
23 under section 201 shall be retained by the hospital for a period  
24 of five years and be provided to any member of the public upon  
25 request at no charge.

26 Section 205. Exclusion.

27 Outpatient units are excluded from reporting requirements  
28 under this act.

29 Section 206. Divisions and subsidiaries.

30 If a hospital is a division or subsidiary of another entity

1 that owns or operates another hospital or related organizations,  
2 the report under section 201 shall be for the specific division  
3 or subsidiary and not for the other entity.

4 Section 207. Whistle blower protection.

5 (a) General rule.--A hospital shall not penalize,  
6 discriminate or retaliate in any manner against an employee with  
7 respect to compensation or the terms, conditions or privileges  
8 of employment who in good faith, individually or in conjunction  
9 with another person, does any of the following, or intimidate,  
10 threaten or punish an employee to prevent the employee from  
11 doing any of the following:

12 (1) Disclosing to a nursing staff supervisor or manager,  
13 a private accreditation organization, a nurse's collective  
14 bargaining agent or a regulatory agency, any activity, policy  
15 or practice of a hospital that violates this act or other law  
16 or rule or that the employee believes poses a risk to the  
17 health, safety or welfare of a patient or the public.

18 (2) Initiating, cooperating or otherwise participating  
19 in an investigation or proceeding brought by a regulatory  
20 agency or private accreditation body concerning matters  
21 covered by this act or any law or rule that the employee  
22 reasonably believes poses a risk to the health, safety or  
23 welfare of a patient or the public.

24 (3) Objecting or refusing to participate in any  
25 activity, policy or practice of a hospital that violates this  
26 act or any law or rule the department or a reasonable person  
27 would believe poses a risk to the health, safety and welfare  
28 of a patient or the public.

29 (4) Participating in a committee or peer review process  
30 or filing a report of complaint that discusses allegations of



1 unsafe, dangerous or potentially dangerous care within a  
2 hospital.

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

5 (i) The information reported or disclosed is true.

6 (ii) A violation has occurred or may occur.

7 (c) Notice to hospital.--

8 (1) The protection under subsection (a) shall not apply  
9 to an employee unless the employee gives written notice to a  
10 hospital manager of the activity, policy, practice or  
11 violation that the employee believes poses a risk to the  
12 health of a patient or the public and provides the manager a  
13 reasonable opportunity to correct the problem.

14 (2) The manager shall respond in writing to the employee  
15 within seven days to acknowledge that the notice was  
16 received. The manager shall provide written notice of any  
17 action taken within a reasonable time of receiving the  
18 employee's notice.

19 (3) The notice requirement under paragraph (1) shall not  
20 apply if the employee is reasonably certain that the  
21 activity, policy or practice:

22 (i) is known by one or more hospital managers that  
23 have had the opportunity to correct the problem and have  
24 not done so;

25 (ii) involves the commission of a crime;

26 (iii) places patient health or safety in severe or  
27 immediate danger; or

28 (iv) is reported by the employee in a survey,  
29 investigation or other activity of a regulatory agency.

30 Section 208. Forms.

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

3 Section 209. Quarterly Reports.--

4 (a) General rule.--The department shall produce a quarterly  
5 report for each hospital that shows the average direct care  
6 nurse staffing levels for a three-month period as follows:

7 (1) Ratios of patients to staff for each type of patient  
8 care unit.

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

10 (3) Percentage of contractual direct care nursing staff  
11 utilized.

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

14 (5) Daily number of registered respiratory care  
15 therapists.

16 (b) Posting.--The quarterly reports produced by the  
17 department shall be made available to the public on the same  
18 Internet website as the quality control measures reporting for  
19 health care facilities. The department shall post quarterly  
20 reports January 31, April 30, July 31 and October 31 of each  
21 year. The data in the quarterly reports must cover a period  
22 ending not earlier than one month prior to submission of the  
23 report.

24 Section 210. Monitoring.

25 The department shall be responsible for monitoring the  
26 reports from all hospitals in this Commonwealth for variances  
27 between periods and to compare the reports to the reported  
28 quality control measures to determine if there are correlations  
29 or deficiencies in the quality measures.

30 Section 211. Compliance by hospitals.

1       The department shall be responsible for ensuring compliance  
2 with this act as a condition of licensure under the act of July  
3 19, 1979 (P.L.130, No.48), known as the Health Care Facilities  
4 Act, and shall enforce compliance in accordance with the  
5 provisions of the Health Care Facilities Act.

6   CHAPTER 3

7   MISCELLANEOUS PROVISIONS

8 Section 301. Effective date.

9       This act shall take effect in 90 days.