

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2092 Session of 2018

INTRODUCED BY WARD, MURT, DIGIROLAMO, COX, BARRAR, O'BRIEN,
 A. HARRIS, FREEMAN, KORTZ, READSHAW, MILLARD, D. COSTA,
 WATSON, KAVULICH, BOBACK, WHEELAND, RADER, M. QUINN, GABLER,
 BENNINGHOFF, PHILLIPS-HILL, TOOHIL, PETRARCA, M. K. KELLER,
 MULLERY, HENNESSEY, ZIMMERMAN AND STURLA, FEBRUARY 26, 2018

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 26, 2018

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 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 STAFFING STANDARDS

18 Section 801-A. Scope of chapter.

19 This chapter relates to professional nurse staffing standards
 20 in general or special hospitals that will address patient safety

1 and the delivery of quality nursing care to patients.

2 Section 802-A. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Direct patient care." Care provided by a professional nurse
7 who has accepted the direct responsibility to carry out medical
8 regimens or nursing care for one or more patients.

9 "Hospital unit." An area in a hospital where direct patient
10 care is provided. The term shall include a long-term acute care
11 unit.

12 "Long-term acute care unit." A unit of a hospital whose
13 patients have a length of stay greater than 25 days and that
14 provides specialized acute care of medically complex patients
15 who are critically ill.

16 "Magnet hospital." A hospital recognized by the American
17 Nurses Credentialing Center as a magnet or pathway to excellence
18 hospital.

19 "Professional nurse." An individual who holds a license to
20 practice professional nursing under the act of May 22, 1951
21 (P.L.317, No.69), known as The Professional Nursing Law.

22 "Quality measures." Measures or indicators including, but
23 not limited to, claims and medical records that allow the
24 organization to evaluate processes and outcomes of care and
25 nursing-sensitive indicators endorsed by the National Quality
26 Forum or that are part of the National Database for Nursing
27 Quality Indicators.

28 "Staffing committee." The professional nurse staffing
29 committee or committees established under section 804-A.

30 "Staffing plan." The professional nurse staffing plan

1 established under section 803-A.

2 "Unforeseeable emergent circumstance." Any of the following:

3 (1) An unforeseeable declared national, State or
4 municipal emergency.

5 (2) A highly unusual or extraordinary event which
6 substantially affects the provision of needed health care
7 services or increases the need for health care services,
8 including:

9 (i) an act of terrorism;

10 (ii) a natural disaster; and

11 (iii) a widespread disease outbreak.

12 Section 803-A. Organizational development of professional nurse
13 staffing plan.

14 A hospital shall develop, implement and monitor a
15 professional nurse staffing plan for each hospital unit. The
16 development of the plan shall occur internally by a professional
17 nurse staffing committee or committees established under section
18 804-A and shall be made available to the department as
19 established under section 808-A.

20 Section 804-A. Staffing committees.

21 (a) Establishment.--A hospital shall establish at least one
22 staffing committee within 120 days of the effective date of this
23 section. The staffing committee shall meet at least two times
24 each year.

25 (b) Membership.--The membership of the staffing committee
26 shall be split evenly between professional nurses currently
27 providing direct patient care in the hospital and administrative
28 staff. The following shall apply:

29 (1) Professional nurses currently providing direct
30 patient care in the hospital shall be selected by their peers

1 on an anonymous basis to serve on the committee.

2 (2) Administrative staff may be appointed at the
3 discretion of the board of directors or president of the
4 hospital and shall include at least one individual with
5 experience with the hospital's budget or financial condition.

6 (3) For a hospital recognized as a magnet hospital, the
7 administrative staff shall include at least one individual
8 with experience of the magnet recognition process.

9 (c) Oversight.--The chairperson of the staffing committee
10 shall ensure that the staffing committee develops a staffing
11 plan as required in section 803-A and that the plan is evaluated
12 by the hospital at least twice annually.

13 (d) Vacancies.--If a vacancy occurs on the staffing
14 committee, the vacant position shall be filled no later than 60
15 days after notice of the vacancy and shall follow the parameters
16 for membership as provided for under subsection (b).

17 Section 805-A. Duties and responsibilities of staffing
18 committees.

19 The staffing committee shall have the following duties and
20 responsibilities:

21 (1) Develop a staffing plan, in a timeline that is
22 consistent with the hospital budgetary planning process, as
23 prescribed in section 803-A within 180 days following the
24 effective date of this section.

25 (2) Elect a chairperson from within the staffing
26 committee who is a professional nurse that provides direct
27 patient care.

28 (3) Develop a staffing plan that takes into
29 consideration variables that can influence the staffing plan
30 for that hospital unit. The variables include, but are not

1 limited to, the following:

2 (i) The competencies required by the nursing staff
3 in that hospital unit to provide care to the hospital
4 unit's patient population to ensure the delivery of
5 quality care and quality outcomes.

6 (ii) Staffing standards recommended by nationally
7 recognized professional nursing organizations,
8 particularly those that address professional standards of
9 care for the selected patient population.

10 (iii) Staff skill mix, specialty certification and
11 years of experience.

12 (iv) The numbers and types of other professional,
13 paraprofessional or support staff that professional
14 nurses must collaborate with or supervise to ensure the
15 delivery of quality care and quality outcomes.

16 (v) Quality measures, patient volume, patient
17 acuity, nursing care intensity and patient turnover
18 issues that can affect the numbers and types of staff
19 required for the patient population in a hospital unit.

20 (vi) The time needed to complete various key nursing
21 tasks, including, but not limited to, surveillance,
22 patient assessment, patient education and discharge
23 planning.

24 (vii) The physical environment in which care is
25 provided, including, but not limited to, the physical
26 architecture of each hospital unit, patient location and
27 available technology of the health care facility.

28 (viii) Routine fluctuations, such as admissions,
29 discharges and transfers.

30 (4) Approve the plan with a vote in favor of the plan of

1 at least 66% of the staff committee.

2 (5) Ensure that the plan contains information informing
3 professional nurses how to report concerns about
4 noncompliance with the staffing plan to a person designated
5 by the staffing committee.

6 (6) Review the plan at least twice annually and adjust
7 the plan as determined by the staffing committee in
8 accordance with the provisions of this section and review
9 information received from the hospital under section 806-A.

10 Section 806-A. Duties and responsibilities of hospital.

11 A hospital shall have the following duties and
12 responsibilities:

13 (1) Establish the staffing committee required to develop
14 the staffing plan prescribed in section 804-A within 120 days
15 of the effective date of this section.

16 (2) Provide the education and parameters necessary for
17 the committee to create a staffing plan given the available
18 resources of the hospital so that the committee can
19 responsibly develop the staffing plan within 180 days of the
20 effective date of this section.

21 (3) Adopt the staffing plan in a timeline that is
22 consistent with the hospital budgetary planning process.

23 (4) Make accessible to all professional nursing staff
24 the final and approved staffing plan for the units in the
25 hospital.

26 (5) Evaluate the staffing plan and report to the
27 staffing committee no less than twice annually, pertaining to
28 implementation, barriers to implementation and other concerns
29 relating to staffing plans.

30 (6) Develop and implement a plan of action with the

1 assistance of professional nurses providing direct patient
2 care and other appropriate staff, if there is evidence of
3 noncompliance with the staffing plan and the noncompliance
4 with the staffing plan negatively impacts patients and
5 professional nurses.

6 (7) Establish a process by which immediate concerns
7 about nurse staffing can be reported and addressed within
8 nursing and inform the professional nurse staff of the
9 process.

10 (8) Develop mechanisms by which professional nursing
11 staff can raise concerns and make recommendations about the
12 staffing plans either through the existing staffing committee
13 or nursing administration, or both.

14 (9) Ensure that the chief nursing officer receives
15 periodic reports from the staffing committee in a format
16 developed by the hospital to ensure that consistent
17 information is captured.

18 (10) Receive reports from other hospital committees,
19 including, but not limited to, the patient safety committee
20 and quality committee, that may be related to nurse staffing.

21 (11) Provide an annual report, for internal purposes, to
22 the chief executive officer, the staffing committee and the
23 governing board relating to nurse staffing, including, but
24 not limited to, compliance with the approved nurse staffing
25 plans and any actions taken to address nurse staffing issues.

26 (12) Make available to all patients information on how
27 to make a request for the staffing plan, including the
28 appropriate person, office or department that may be
29 contacted to review or obtain a copy of the plan.

30 (13) In the event of an unforeseeable emergent

1 circumstance, the hospital administration shall notify the
2 chairperson within 24 hours that immediate efforts were made
3 to meet the staffing plan.

4 (14) Comply with act of December 12, 1986 (P.L.1559,
5 No.169), known as the Whistleblower Law, and section
6 307(b)(4) of the act of March 20, 2002 (P.L.154, No.13),
7 known as the Medical Care Availability and Reduction of Error
8 (Mcare) Act.

9 (15) Comply with the act of October 9, 2008 (P.L.1376,
10 No.102), known as the Prohibition of Excessive Overtime in
11 Health Care Act.

12 Section 807-A. Protections for professional nurses.

13 (a) Refusal of assignment.--A professional nurse who refuses
14 an assignment that is in conflict with a hospital's staffing
15 plan shall not be deemed to have engaged in negligent action or
16 patient abandonment or to be in violation of professional
17 nursing laws or regulations.

18 (b) Retaliation prohibited.--A hospital may not retaliate
19 against a professional nurse for serving on a staffing committee
20 or participating in the development, approval or review of a
21 staffing plan.

22 Section 808-A. Duties and responsibilities of department.

23 (a) Form.--The department shall develop a form to be
24 completed by an individual designated by the department to
25 inspect a hospital under section 806.4.

26 (b) Penalty.--The department may impose an administrative
27 penalty of \$1,000 per day upon a hospital not in compliance with
28 this chapter.

29 (c) Regulations.--The department shall promulgate
30 regulations necessary to implement the provisions of this

1 chapter.

2 Section 809-A. Safe Staffing Penalty Account.

3 (a) Establishment.--The Safe Staffing Penalty Account is
4 established as a restricted account in the General Fund.

5 (b) Deposit.--The department shall deposit money collected
6 from the penalty imposed under section 808-A(b) into the
7 account.

8 (c) Use.--Money in the account is appropriated on a
9 continuing basis to the department for use in the performance of
10 its duties.

11 Section 810-A. Confidentiality.

12 The following shall apply:

13 (1) The department shall ensure confidentiality of the
14 reports made under this chapter in accordance with the act of
15 June 10, 2009 (P.L.1, No.1), known as the Preventable Serious
16 Adverse Events Act.

17 (2) The department shall ensure the confidentiality of
18 the annual report required by section 806-A(11). The annual
19 report shall not be included in the discovery process of any
20 subsequent lawsuits filed against a hospital.

21 Section 2. This act shall take effect in 180 days.