
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 336 Session of
2017

INTRODUCED BY FONTANA, LEACH, SABATINA, COSTA, BLAKE,
LANGERHOLC, HAYWOOD, BREWSTER, HUGHES AND BROWNE,
FEBRUARY 15, 2017

REFERRED TO HEALTH AND HUMAN SERVICES, FEBRUARY 15, 2017

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

8 CHAPTER 1

9 GENERAL PROVISIONS

10 Section 101. Short title.

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

13 Section 102. Purpose of act.

14 The General Assembly finds and declares as follows:

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

19 (2) Decades of nursing research demonstrate that unsafe
20 nurse staffing practices have resulted in adverse patient
21 outcomes.

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

26 Section 103. Definitions.

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

30 "Actual hours worked." The actual hours worked by a nurse

1 providing direct patient care during any portion of the nurse's
2 shift. The term includes a nurse's 15-minute breaks. The term
3 does not include meal breaks, benefit time, vacation, medical
4 leave, orientation, education or committee time.

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

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

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

19 "Long-term acute care hospital." A hospital or health care
20 facility that specializes in providing acute care to medically
21 complex patients with an anticipated length of stay of more than
22 25 days. The term includes a free-standing and a hospital-
23 within-hospital model long-term acute care facility.

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

1 "Overflow." When the volume of patients outnumbered the beds
2 of a licensed unit and the beds in another licensed unit are
3 used for those patients.

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

5 (1) is a specific geographical or physical location
6 within the hospital;

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

8 (3) provides clinical services by a generic class of
9 levels of support functions, equipment, care or treatment
10 provided to inpatients.

11 "Retaliate." To discipline, discharge, suspend, harass, deny
12 employment or promotion, lay off or take any other adverse
13 action.

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

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

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

26 CHAPTER 2

27 NURSING STAFF REPORTING

28 Section 201. Nursing staff report.

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

1 information:

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

4 (i) Registered nurses.

5 (ii) Licensed practical nurses.

6 (iii) Certified nursing assistants.

7 (iv) Unlicensed personnel.

8 (2) The ratio of patients to each of the following types
9 of staff:

10 (i) Registered nurses.

11 (ii) Licensed practical nurses.

12 (iii) Certified nursing assistants.

13 (iv) Unlicensed personnel.

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

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

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

23 (6) Percentage of contractual nurses included in the
24 shift staff.

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

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

30 (9) The number and types of complaints filed with the

1 hospital concerning patient care for the previous month.

2 (b) Reporting method.--The report required under subsection

3 (a) shall be compiled as follows:

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

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

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

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

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

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

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

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

16 (9) Sitters will be considered unlicensed assistant
17 personnel only if they provide other direct patient care in
18 addition to observation. Sitters providing only companion
19 service may not be included in the actual hours worked for
20 unlicensed assistant personnel.

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

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

28 Section 202. Posting.

29 A hospital shall post the report required under section 201
30 as follows:

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

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

5 (3) The report shall be easily readable in its posted
6 form.

7 Section 203. Submission of report to department.

8 A hospital shall submit the daily reports for the previous
9 month to the department no later than the 15th day of each
10 month.

11 Section 204. Retention of records.

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

16 Section 205. Exclusion.

17 Outpatient units are excluded from reporting requirements
18 under this act.

19 Section 206. Divisions and subsidiaries.

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

24 Section 207. Whistleblower protection.

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

1 doing any of the following:

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

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

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

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

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

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

26 (2) A violation has occurred or may occur.

27 (c) Notice to hospital.--

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

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

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

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

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

15 (ii) involves the commission of a crime;

16 (iii) places patient health or safety in severe or
17 immediate danger; or

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

20 Section 208. Forms.

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

23 Section 209. Quarterly reports.

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

27 (1) Ratios of patients to staff for each type of patient
28 care unit.

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

30 (3) Percentage of contractual direct care nursing staff

1 utilized.

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

4 (5) Daily number of registered respiratory care
5 therapists.

6 (b) Posting.--The quarterly reports produced by the
7 department shall be made available to the public on the same
8 Internet website as the quality control measures reporting for
9 health care facilities. The department shall post quarterly
10 reports January 31, April 30, July 31 and October 31 of each
11 year. The data in the quarterly reports must cover a period
12 ending not earlier than one month prior to submission of the
13 report.

14 Section 210. Monitoring.

15 The department shall be responsible for monitoring the
16 reports from all hospitals in this Commonwealth for variances
17 between periods and to compare the reports to the reported
18 quality control measures to determine if there are correlations
19 or deficiencies in the quality measures.

20 Section 211. Compliance by hospitals.

21 The department shall be responsible for ensuring compliance
22 with this act as a condition of licensure under the act of July
23 19, 1979 (P.L.130, No.48), known as the Health Care Facilities
24 Act, and shall enforce compliance in accordance with the
25 provisions of the Health Care Facilities Act.

26 CHAPTER 3

27 MISCELLANEOUS PROVISIONS

28 Section 301. Effective date.

29 This act shall take effect in 90 days.