
OLR Bill Analysis

SB 1067

AN ACT CONCERNING ADEQUATE AND SAFE HEALTH CARE STAFFING.

SUMMARY

This bill makes several changes affecting nurse staffing and overtime policies in hospitals. It modifies requirements for hospital nurse staffing plans by doing the following:

1. requiring plans developed and implemented after January 1, 2028, to require specified ratios of patients to (a) registered nurses (RNs) providing direct patient care per patient care unit and (b) assistive personnel providing patient care per patient care unit;
2. requiring hospitals to post their plans on each patient care unit in a location visible and accessible to staff, patients, and the public;
3. requiring hospitals to retain staffing records and related information for at least the prior three years and make the records available, upon request, to the Department of Public Health (DPH), hospital staff and patients, staff collective bargaining units, and the public; and
4. requiring RN members of hospital staffing committees that help develop the staffing plans to be selected by a representative of their collective bargaining unit, if they are members of one.

The bill also allows RNs to object to or refuse to participate in any hospital activity, policy, practice, or task if they reasonably believe that (1) participating would violate the bill's requirements or (2) they do not have the training, education, or experience to do so without compromising patient safety. It prohibits hospitals from taking adverse action against an RN for refusing to do so and allows RNs to bring a

lawsuit against hospitals for any adverse action taken against them for doing so.

Additionally, the bill makes changes to hospital overtime policies for nursing staff by doing the following:

1. prohibiting hospitals from requiring nurses to work overtime and taking adverse action against nurses for refusing to do so, with limited exceptions (e.g., public health emergencies or nurses working in critical care units);
2. requiring hospitals, under these limited exceptions, to make a good faith effort to cover overtime hours voluntarily before mandating nurses to work them;
3. allowing mandatory overtime for nurses covered by collective bargaining agreements if the agreements allow it; and
4. prohibiting hospitals, as a regular practice, from mandating overtime in order to provide necessary staffing levels for patient care or address situations resulting from routine staffing needs (e.g., absenteeism or vacation, personal, or sick leave).

Lastly, the bill makes technical changes.

EFFECTIVE DATE: October 1, 2023

HOSPITAL NURSE STAFFING PLANS

Plan Requirements

By law, hospitals must annually report to DPH on their prospective nurse staffing plans. In addition to the information already required by law, the bill requires plans developed and implemented after January 1, 2028, to require specific ratios of patients to RNs providing direct patient care per patient care unit.

It also requires the plans to include specific ratios of patients to assistive personnel providing patient care per patient care unit. Under the bill, “assistive personnel” are non-licensed personnel who work under an RN’s direct supervision to provide specific delegated patient

care activities.

The table below provides the specific hospital patient to staff ratios required under the bill as of January 1, 2028.

Table: Hospital Patient to Staff Ratios Under the Bill

<i>Ratio of Patients to Direct Care RNs Per Patient Per Unit</i>	
<i>Ratio</i>	<i>Hospital Unit</i>
One-to-one	<ul style="list-style-type: none"> • Operating room • Trauma patients in the emergency department (ED)
Two-to-one	<ul style="list-style-type: none"> • Intensive care, post-anesthesia recovery, neonatal intensive care, and labor and delivery units • Patients requiring intensive care in the ED
Three-to-one	<ul style="list-style-type: none"> • Progressive care units
Four-to-one	<ul style="list-style-type: none"> • Telemetry, pediatric, postpartum, and nursery units • The ED
Five-to-one	<ul style="list-style-type: none"> • Medical-surgical, oncology, and orthopedics units
Six-to-one	<ul style="list-style-type: none"> • Psychiatry units
<i>Ratio of Patients to Assistive Personnel Per Patient Per Unit</i>	
Six-to-one	<ul style="list-style-type: none"> • Orthopedics and progressive care units
Eight-to-one	<ul style="list-style-type: none"> • Intensive care, medical surgical, oncology, pediatric, psychiatric, and telemetry units • The ED
Twelve-to-one	<ul style="list-style-type: none"> • Obstetrics units

Hospital Staffing Committees

By law, hospitals must establish a hospital staffing committee to help prepare its annual nurse staffing plan. Direct care RNs the hospital employs must comprise at least 50% of the committee membership.

Under the bill, when RNs are members of a collective bargaining unit, a representative of the collective bargaining unit must select the RNs who will participate on the committee. It expressly provides that doing so cannot be construed to allow conduct prohibited under the National Labor Relations Act.

Records

The bill requires hospitals to maintain accurate patient to staff ratio

records for at least the prior three years. The records must also include the number of:

1. patients in each unit on each shift,
2. RNs providing direct patient care assigned to each patient in each unit on each shift, and
3. assistive personnel providing patient care assigned to each patient in each unit on each shift.

Under the bill, hospitals must make the records available, upon request, to DPH, hospital staff and patients, collective bargaining units representing staff, and the public.

NURSE PARTICIPATION IN HOSPITAL ACTIVITIES

The bill allows an RN to object to or refuse to participate in any activity, policy, practice, or task the hospital assigns, if the RN acts in good faith and (1) reasonably believes, in his or her professional judgement, that participating would violate the bill's requirements or (2) does not have the education, training, or experience to participate without compromising patient safety or jeopardizing his or her license.

It prohibits a hospital from taking any adverse action (e.g., discrimination or retaliation) against an RN or any aspect of the RN's employment for doing so, including (1) revising the RN's employment terms, conditions, or privileges or (2) with regard to discharge, promotion, or reduction in compensation. It also prohibits a hospital from filing a complaint or report with DPH against an RN for doing so.

Under the bill, an RN, or his or her legal representative or collective bargaining representative, may bring a lawsuit against a hospital if the RN was discharged, discriminated or retaliated against, or had a complaint or report filed with DPH against them. An RN who prevails in a lawsuit is entitled to (1) reinstatement of his or her employment; (2) reimbursement for lost wages, compensation, or benefits; (3) attorneys' fees and court costs; and (4) any other relevant damages.

NURSE OVERTIME

Definitions

Under the bill, “overtime” means working:

1. in excess of a set scheduled work shift, regardless of the shift’s length, if the shift is determined and communicated at least 48 hours before it starts;
2. more than 12 hours in a 24-hour period;
3. during the 10-hour period immediately following the end of the previous work shift of at least eight hours; or
4. more than 48 hours in any hospital-defined work week.

Prohibition

Similar to current law, the bill prohibits hospitals from requiring a nurse to work overtime and from discriminating or retaliating against them (e.g., threatened or actual discipline or discharge) for refusing to do so. Under current law, the prohibition does not apply in the following situations:

1. nurses participating in an ongoing surgical procedure, until it is completed;
2. nurses working in critical care units, until they are relieved by another nurse starting a scheduled work shift;
3. public health emergencies; and
4. institutional emergencies, such as adverse weather conditions or widespread illness, that the hospital administrator determines will significantly reduce the number of nurses available to work.

The bill specifies that these exemptions apply only when patient safety requires it and there is no reasonable alternative.

Collective Bargaining Units

The bill provides that its provisions cannot be construed to alter or

impair a collective bargaining agreement's terms that place additional mandatory overtime restrictions or limitations.

The bill does not prohibit mandatory overtime for nurses covered by collective bargaining agreements under the following conditions:

1. the agreements allow mandatory overtime,
2. mandatory overtime for the reasons described above is a mandatory subject of bargaining, and
3. mandatory overtime for reasons other than those described above is a permissible subject of bargaining.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 25 Nay 12 (03/27/2023)