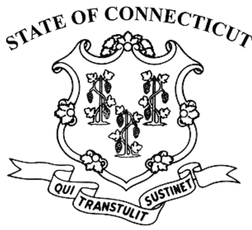

Senate

General Assembly

File No. 465

January Session, 2023

Senate Bill No. 1067

Senate, April 6, 2023

The Committee on Public Health reported through SEN. ANWAR of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING ADEQUATE AND SAFE HEALTH CARE STAFFING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-89e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) For purposes of this section:

4 (1) "Department" means the Department of Public Health; **[**and**]**

5 (2) "Hospital" means an establishment for the lodging, care and
6 treatment of persons suffering from disease or other abnormal physical
7 or mental conditions and includes inpatient psychiatric services in
8 general hospitals;

9 (3) "Assistive personnel" means personnel who are not licensed by
10 the Department of Public Health, but who work under the direct
11 supervision of a registered nurse to implement specifically delegated
12 patient care activities; and

(4) "Professional judgment" means the application of knowledge, expertise and experience, in accordance with the provisions of the general statutes and regulations of Connecticut state agencies concerning the practice of nursing, in conducting a comprehensive nursing assessment of each patient and making independent decisions about patient care, including, but not limited to, the need for additional staff providing patient care.

(b) Each hospital licensed by the department pursuant to chapter 368v shall report, annually, to the department on a prospective nurse staffing plan with a written certification that the nurse staffing plan is sufficient to provide adequate and appropriate delivery of health care services to patients in the ensuing period of licensure. Such plan shall promote a collaborative practice in the hospital that enhances patient care and the level of services provided by nurses and other members of the hospital's patient care team. Nurse staffing plans developed and implemented on or after January 1, 2028, shall require the following ratios of (1) patients to registered nurses providing direct patient care per corresponding patient care unit: (A) Four to one for the emergency department; (B) two to one for patients requiring intensive care in the emergency department; (C) one to one for trauma patients in the emergency department; (D) two to one for the intensive care unit; (E) three to one for the progressive care unit; (F) four to one for the telemetry unit; (G) five to one for the medical-surgical unit; (H) four to one for the pediatric unit; (I) one to one for the operating room; (J) two to one for the post-anesthesia recovery unit; (K) five to one for the oncology unit; (L) five to one for the orthopedics unit; (M) six to one for the psychiatry unit; (N) two to one for the labor and delivery unit; (O) four to one for the postpartum unit; (P) four to one for the nursery unit; and (Q) two to one for the neonatal intensive care unit; and (2) patients to assistive personnel providing patient care per corresponding patient care unit: (A) Eight to one for the emergency department; (B) eight to one for the intensive care unit; (C) six to one for the progressive care unit; (D) eight to one for the telemetry unit; (E) eight to one for the medical-surgical unit; (F) eight to one for the pediatric unit; (G) eight to one for the oncology unit; (H) six to one for the orthopedics unit; (I) eight

48 to one for the psychiatric unit; and (J) twelve to one for the obstetrics
49 unit.

50 (c) Each hospital shall establish a hospital staffing committee to assist
51 in the preparation of the nurse staffing plan required pursuant to
52 subsection (b) of this section. Registered nurses employed by the
53 hospital whose primary responsibility is to provide direct patient care
54 shall account for not less than fifty per cent of the membership of each
55 hospital's staffing committee. In order to comply with the requirement
56 that a hospital establish a hospital staffing committee, a hospital may
57 utilize an existing committee or committees to assist in the preparation
58 of the nurse staffing plan, provided not less than fifty per cent of the
59 members of such existing committee or committees are registered
60 nurses employed by the hospital whose primary responsibility is to
61 provide direct patient care. When registered nurses employed by the
62 hospital are members of a collective bargaining unit, a representative of
63 the collective bargaining unit shall select the registered nurses who shall
64 be members of the hospital staffing committee, provided such selection
65 shall not be construed to permit conduct prohibited under the National
66 Labor Relations Act, 29 USC 151 et seq., as amended from time to time,
67 or 5 USC Chapter 71, as amended from time to time. Each hospital, in
68 collaboration with its staffing committee, shall develop and implement
69 to the best of its ability the prospective nurse staffing plan. Such plan
70 shall: (1) Include the minimum professional skill mix for each patient
71 care unit in the hospital, including, but not limited to, inpatient services,
72 critical care and the emergency department; (2) identify the hospital's
73 employment practices concerning the use of temporary and traveling
74 nurses; (3) set forth the level of administrative staffing in each patient
75 care unit of the hospital that ensures direct care staff are not utilized for
76 administrative functions; (4) set forth the hospital's process for internal
77 review of the nurse staffing plan; and (5) include the hospital's
78 mechanism of obtaining input from direct care staff, including nurses
79 and other members of the hospital's patient care team, in the
80 development of the nurse staffing plan. In addition to the information
81 described in subdivisions (1) to (5), inclusive, of this subsection, nurse
82 staffing plans developed and implemented after January 1, 2016, shall

83 include: (A) The number of registered nurses providing direct patient
84 care and the ratio of patients to such registered nurses by patient care
85 unit; (B) the number of licensed practical nurses providing direct patient
86 care and the ratio of patients to such licensed practical nurses, by patient
87 care unit; (C) the number of assistive personnel providing direct patient
88 care and the ratio of patients to such assistive personnel, by patient care
89 unit; (D) the method used by the hospital to determine and adjust direct
90 patient care staffing levels; and (E) a description of supporting
91 personnel assisting on each patient care unit. In addition to the
92 information described in subdivisions (1) to (5), inclusive, of this
93 subsection and subparagraphs (A) to (E), inclusive, of this subdivision,
94 nurse staffing plans developed and implemented after January 1, 2017,
95 shall include: (i) A description of any differences between the staffing
96 levels described in the staffing plan and actual staffing levels for each
97 patient care unit; and (ii) any actions the hospital intends to take to
98 address such differences or adjust staffing levels in future staffing plans.

99 (d) Each hospital shall post the nurse staffing plan developed
100 pursuant to subsections (b) and (c) of this section on each patient care
101 unit in a conspicuous location visible and accessible to staff, patients and
102 members of the public. Each hospital shall maintain accurate records,
103 for at least the preceding three years, of the ratios of patients to
104 registered nurses providing direct patient care and patients to assistive
105 personnel providing patient care in each direct care unit for each shift.
106 Such records shall include the number of (1) patients in each unit on
107 each shift; (2) registered nurses providing direct patient care assigned to
108 each patient in each unit on each shift; and (3) assistive personnel
109 providing patient care assigned to each patient in each unit on each shift.
110 Each hospital shall make such records available, upon request, to the
111 Department of Public Health, the staff of the hospital, any collective
112 bargaining unit representing such staff, the patients of the hospital and
113 members of the general public.

114 (e) A registered nurse may object to or refuse to participate in any
115 activity, policy, practice or task assigned by a hospital, provided the
116 registered nurse acts in good faith and, in the registered nurse's

117 professional judgment, the registered nurse (1) reasonably believes
118 participation in the activity, policy, practice or task would violate a
119 provision of this section, or (2) is not prepared by education, training or
120 experience to participate in the activity, policy, practice or task without
121 compromising the safety of a patient or jeopardizing the registered
122 nurse's license. No hospital shall discharge, retaliate against,
123 discriminate against or take any other adverse action against a
124 registered nurse or any aspect of the registered nurse's employment,
125 including, but not limited to, discharge, promotion, reduction in
126 compensation or revisions to terms, conditions or privileges of
127 employment, as a result of such objection or refusal by the registered
128 nurse. No hospital shall file a complaint or report against a registered
129 nurse with the Department of Public Health as a result of such objection
130 or refusal. Any registered nurse or collective bargaining representative
131 or legal representative of a registered nurse who has been discharged,
132 discriminated against or retaliated against in violation of the provisions
133 of this subsection, or against whom a complaint or report has been filed
134 in violation of such provisions, may bring a cause of action against the
135 hospital. A registered nurse who prevails in such cause of action shall
136 be entitled to one or more of the following: (A) Reinstatement of
137 employment, (B) reimbursement of lost wages, compensation and
138 benefits, (C) attorneys' fees, (D) court costs, and (E) any other relevant
139 damages.

140 **[**(d)**]** (f) On or before January 1, 2016, and annually thereafter, the
141 Commissioner of Public Health shall report, in accordance with the
142 provisions of section 11-4a, to the joint standing committee of the
143 General Assembly having cognizance of matters relating to public
144 health concerning hospital compliance with reporting requirements
145 under this section and recommendations concerning any additional
146 reporting requirements.

147 Sec. 2. Section 19a-490*l* of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective October 1, 2023*):

149 (a) As used in this section:

150 (1) "Nurse" means a registered nurse or a practical nurse licensed
151 pursuant to chapter 378, or a nurse's aide registered pursuant to chapter
152 378a; [and]

153 (2) "Hospital" has the same meaning as set forth in section 19a-490;
154 and

155 (3) "Overtime" means working (A) in excess of a predetermined
156 scheduled work shift, regardless of the length of such scheduled work
157 shift, provided such scheduled work shift is determined and
158 communicated not less than forty-eight hours prior to the
159 commencement of such scheduled work shift, (B) more than twelve
160 hours in a twenty-four-hour period, (C) during the ten-hour period
161 immediately following the end of the previous work shift of eight hours
162 or more, or (D) more than forty-eight hours in any hospital-defined
163 work week.

164 (b) [No] Except as provided in this section, no hospital [may] shall
165 require a nurse to work [in excess of a predetermined scheduled work
166 shift, provided such scheduled work shift is determined and
167 promulgated not less than forty-eight hours prior to the commencement
168 of such scheduled work shift] overtime. No hospital shall discriminate
169 against, discharge, discipline, threaten to discharge or discipline or
170 otherwise retaliate against a nurse for refusing to work overtime.

171 (c) Any nurse may volunteer or agree to work [hours in addition to
172 such scheduled work shift but the refusal by a nurse to accept such
173 additional hours shall not be grounds for discrimination, dismissal,
174 discharge or any other penalty or employment decision adverse to the
175 nurse] overtime.

176 [(c) The] (d) When the safety of a patient requires and when there is
177 no reasonable alternative, the provisions of subsection (b) of this section
178 shall not apply: (1) To any nurse participating in [a] an ongoing surgical
179 procedure until such procedure is completed; (2) to any nurse working
180 in a critical care unit until such nurse is relieved by another nurse who
181 is commencing a scheduled work shift; (3) in the case of a public health

182 emergency; or (4) in the case of an institutional emergency, including,
183 but not limited to, adverse weather conditions, catastrophe or
184 widespread illness, that in the opinion of the hospital administrator will
185 significantly reduce the number of nurses available for a scheduled
186 work shift, provided the hospital administrator has made a good faith
187 effort to mitigate the impact of such institutional emergency on the
188 availability of nurses. **[**; or (5) to any nurse who is covered by a collective
189 bargaining agreement that contains provisions addressing the issue of
190 mandatory overtime.**]**

191 (e) Before requiring a nurse to work overtime in accordance with the
192 provisions of subsection (d) of this section, a hospital shall make a good
193 faith effort to have such overtime hours covered on a voluntary basis.
194 Mandatory overtime shall not be required as a regular practice for
195 providing appropriate staffing for the necessary level of patient care or
196 in any situation that is the result of routine staffing needs caused by
197 typical staffing patterns, expected levels of absenteeism or time off
198 typically approved by the hospital for vacation, holidays, sick leave and
199 personal leave.

200 (f) (1) The provisions of this section shall not be construed to alter or
201 impair the terms of any bona fide collective bargaining agreement that
202 places additional restrictions or limitations on the use of mandatory
203 overtime.

204 (2) The provisions of this section shall not prohibit mandatory
205 overtime with respect to any nurse who is covered by a bona fide
206 collective bargaining agreement in effect prior to July 1, 2022, containing
207 provisions addressing the issue of mandatory overtime, until the
208 expiration date of the collective bargaining agreement.

209 (3) The provisions of this section shall not prohibit mandatory
210 overtime with respect to any nurse who is covered by a bona fide
211 collective bargaining agreement under chapter 68 to the extent such
212 collective bargaining agreement permits mandatory overtime, provided
213 mandatory overtime for reasons set forth in subsection (d) of this section
214 shall be a mandatory subject of bargaining, and mandatory overtime for

215 reasons other than those set forth in subsection (d) of this section shall
216 be a permissible subject of bargaining.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2023*	19a-89e
Sec. 2	*October 1, 2023*	19a-490*l*

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 $	FY 25 $
UConn Health Ctr.; Mental Health & Addiction Serv., Dept.; Children & Families, Dept.	GF - Cost	See Below	Potential Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which establishes requirements regarding nurse staffing and mandatory overtime in hospitals, results in a potentially significant fiscal impact to UConn Health Center (UCHC) and the Departments of Mental Health and Addiction Services (DMHAS) and Children and Families (DCF), as described below.

Mandatory overtime as regular practice/prohibition. The bill prohibits hospitals from using mandatory overtime as a regular practice. These provisions will have a significant impact to the state as mandatory overtime is used with some frequency to staff John Dempsey Hospital, Whiting Forensic Hospital and Albert J. Solnit Children's Center, when voluntary overtime is insufficient to meet staffing needs. The hospitals currently have numerous nurse vacancies they are attempting to fill.

As the bill does allow for the continuation of mandatory overtime until existing collective bargaining agreements expire, the cost is anticipated to be incurred closer to that time in preparation for meeting the bill's requirements. The expiration date for the relevant state

contracts is June 30, 2025. The current cost to hire 75 new nurses to meet the bill’s provisions regarding overtime at John Dempsey Hospital is estimated at approximately $10.4 million annually.

Hospital Staffing Ratios. The bill requires specific hospital patient to staff ratios as of January 1, 2028. Based on current data, UCHC would incur annual costs totaling approximately $11.5 million to meet the staffing ratios for registered nurses (RNs) and aides. The actual costs to the state, including those associated with DMHAS and DCF, will depend on the staffing levels at the time the bill’s provisions go into effect.

RN Refusal to Participate. The bill allows an RN to object or refuse to participate in any activity, policy, practice, or task the hospital assigns, in certain circumstances. These provisions are effective October 1, 2023. This could result in increased costs to the extent this leads to additional overtime requirements or hospital liability costs.

To the extent that the bill’s provisions cannot be met due to staffing shortages, the state could experience offsetting savings as well as decreased patient revenues associated with serving fewer patients in, order to accommodate the overtime and staffing ratio requirements.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to hospital staffing level requirements and associated salaries.

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

Ratio of Patients to Direct Care RNs Per Patient Per Unit	
Ratio	***Hospital Unit***
One-to-one	• Operating room • Trauma patients in the emergency department (ED)
Two-to-one	• Intensive care, post-anesthesia recovery, neonatal intensive care, and labor and delivery units • Patients requiring intensive care in the ED
Three-to-one	• Progressive care units
Four-to-one	• Telemetry, pediatric, postpartum, and nursery units • The ED
Five-to-one	• Medical-surgical, oncology, and orthopedics units
Six-to-one	• Psychiatry units
Ratio of Patients to Assistive Personnel Per Patient Per Unit	
Six-to-one	• Orthopedics and progressive care units
Eight-to-one	• Intensive care, medical surgical, oncology, pediatric, psychiatric, and telemetry units • The ED
Twelve-to-one	• 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)