



General Assembly

**Amendment**

January Session, 2023

LCO No. 7571



Offered by:

SEN. ANWAR, 3<sup>rd</sup> Dist.

REP. MCCARTHY VAHEY, 133<sup>rd</sup> Dist.

SEN. MARX, 20<sup>th</sup> Dist.

To: Senate Bill No. 1067

File No. 465

Cal. No. 270

**"AN ACT CONCERNING ADEQUATE AND SAFE HEALTH CARE STAFFING."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

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 Section 19a-89e of the general statutes is repealed and the  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

5 (a) For purposes of this section:

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

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

11 (3) "Assistive personnel" means personnel who are not licensed by

12 the Department of Public Health and who engage in specifically  
13 delegated patient care activities;

14 (4) "Professional judgment" means the application of knowledge,  
15 training, expertise and experience concerning the practice of nursing, in  
16 conducting a comprehensive nursing assessment of each patient and  
17 making independent decisions about patient care, including, but not  
18 limited to, the need for additional staff providing patient care; and

19 (5) "Direct care registered nurse" means a registered nurse licensed  
20 pursuant to chapter 378 whose primary responsibility is to provide  
21 direct patient care.

22 (b) Each hospital licensed by the department pursuant to chapter  
23 368v shall report, on or before January first and July first annually, to  
24 the department and the State-wide Staffing Oversight Committee  
25 established pursuant to subsection (h) of this section, on a prospective  
26 nurse staffing plan, developed pursuant to subsections (d) to (g),  
27 inclusive, of this section, with a written certification that the nurse  
28 staffing plan is sufficient to provide adequate and appropriate delivery  
29 of health care services to patients in the ensuing period of licensure.  
30 Such plan shall promote a collaborative practice in the hospital that  
31 enhances patient care and the level of services provided by nurses and  
32 other members of the hospital's patient care team.

33 (c) (1) Each hospital shall establish a dedicated hospital staffing  
34 committee to assist in the preparation of the nurse staffing plan required  
35 pursuant to subsection (b) of this section. [Registered] Direct care  
36 registered nurses employed by the hospital [whose primary  
37 responsibility is to provide direct patient care] shall account for not less  
38 than fifty per cent of the membership of each hospital's staffing  
39 committee and each hospital's staffing committee shall include at least  
40 one direct care registered nurse from each hospital unit. [In order to  
41 comply with the requirement that a hospital establish a hospital staffing  
42 committee, a hospital may utilize an existing committee or committees  
43 to assist in the preparation of the nurse staffing plan, provided not less

44 than fifty per cent of the members of such existing committee or  
45 committees are registered nurses employed by the hospital whose  
46 primary responsibility is to provide direct patient care.] When  
47 registered nurses employed by the hospital are members of a collective  
48 bargaining unit, a representative of the collective bargaining unit shall  
49 select the direct care registered nurses who shall be members of the  
50 hospital staffing committee, provided such selection is not prohibited  
51 conduct under the National Labor Relations Act, 29 USC 151 et seq., as  
52 amended from time to time, or 5 USC Chapter 71, as amended from time  
53 to time.

54 (2) Each hospital shall pay each employee who serves on the hospital  
55 staffing committee such employee's regular rate of pay, including  
56 differentials, for participation on the committee and consider, to the  
57 extent possible as by the hospital, the time such employee serves on the  
58 committee as part of such employee's regularly scheduled work week.  
59 Each hospital shall ensure that direct care registered nurses have  
60 coverage to attend hospital staffing committee meetings.

61 (3) Each hospital staffing committee shall include two cochairpersons  
62 who have direct patient care experience, one of whom is a direct care  
63 registered nurse who shall be elected by members of the committee who  
64 are direct care registered nurses, and one of whom shall be elected by  
65 members of the committee who are not direct care registered nurses.  
66 The committee shall take minutes of every meeting, make such minutes  
67 available to any member of the hospital staff upon request and submit  
68 such minutes to the State-wide Staffing Committee established pursuant  
69 to subsection (h) of this section and the Department of Public Health  
70 when the hospital submits its staffing plan to the department. A  
71 majority of the members of the staffing committee shall constitute a  
72 quorum for the transaction of staffing committee business. A decision  
73 made by the hospital staffing committee shall be made by a vote of a  
74 majority of the members present at the meeting. If a quorum of members  
75 present at a meeting comprises an unequal number of members who are  
76 direct care registered nurses and members who are not direct care  
77 registered nurses, only an equal number of direct care registered nurses

78 and members who are not direct care registered nurses, who shall be  
79 selected by a majority of such nurses and members, may vote.

80 (4) Each hospital shall notify each nurse on the nurse's date of hire,  
81 and annually thereafter, about the hospital staffing committee,  
82 including, but not limited to, the purpose of the committee, the criteria  
83 and process for becoming a member of the committee, the hospital's  
84 process for internal review of the nurse staffing plan and the hospital's  
85 mechanism for obtaining input from direct care staff, including direct  
86 care registered nurses and other members of the hospital's patient care  
87 team, in the development of the nurse staffing plan.

88 (d) Each hospital staffing committee shall develop the nurse staffing  
89 plan for the hospital. In developing such plan, the committee shall share  
90 with hospital staff the procedures for communicating concerns to the  
91 committee regarding such plan and staffing assignments and review all  
92 reports regarding any such concerns and any objections or refusals by a  
93 registered nurse to participate in a staffing assignment made pursuant  
94 to subsection (i) of this section that were communicated to the  
95 committee. Each hospital [, in collaboration with its staffing committee,  
96 shall develop and] shall implement such plan to the best of its ability.  
97 [the prospective nurse staffing plan.] Such plan shall: (1) Include the  
98 minimum professional skill mix for each patient care unit in the  
99 hospital, including, but not limited to, inpatient services, critical care  
100 and the emergency department; (2) identify the hospital's employment  
101 practices concerning the use of temporary and traveling nurses; (3) set  
102 forth the level of administrative staffing in each patient care unit of the  
103 hospital that ensures direct care staff are not utilized for administrative  
104 functions; (4) set forth the hospital's process for internal review of the  
105 nurse staffing plan; and (5) include the hospital's mechanism of  
106 obtaining input from direct care staff, including nurses and other  
107 members of the hospital's patient care team, in the development of the  
108 nurse staffing plan. In addition to the information described in  
109 subdivisions (1) to (5), inclusive, of this subsection, nurse staffing plans  
110 developed and implemented after January 1, 2016, shall include: (A) The  
111 number of registered nurses providing direct patient care and the ratio

112 of patients to such registered nurses by patient care unit; (B) the number  
113 of licensed practical nurses providing direct patient care and the ratio of  
114 patients to such licensed practical nurses, by patient care unit; (C) the  
115 number of assistive personnel providing direct patient care and the ratio  
116 of patients to such assistive personnel, by patient care unit; (D) the  
117 method used by the hospital to determine and adjust direct patient care  
118 staffing levels; and (E) a description of [supporting] assistive personnel  
119 [assisting] on each patient care unit. In addition to the information  
120 described in subdivisions (1) to (5), inclusive, of this subsection and  
121 subparagraphs (A) to (E), inclusive, of this subdivision, nurse staffing  
122 plans developed and implemented after January 1, 2017, shall include:  
123 (i) A description of any differences between the staffing levels described  
124 in the staffing plan and actual staffing levels for each patient care unit;  
125 and (ii) any actions the hospital intends to take to address such  
126 differences or adjust staffing levels in future staffing plans.

127 (e) On and after October 1, 2023, in addition to the information  
128 required pursuant to subsection (d) of this section, each nurse staffing  
129 plan shall include:

130 (1) Information about any objections to or refusals to comply with the  
131 nurse staffing plan by hospital staff that were communicated to the  
132 hospital staffing committee;

133 (2) Measurements of and evidence to support successful  
134 implementation of the nurse staffing plan;

135 (3) Retention, turnover and recruitment metrics for direct care  
136 registered nursing staff, including, but not limited to, the turnover rate  
137 per hospital unit during the preceding twelve months and the average  
138 years of experience of permanent direct care registered nursing staff per  
139 unit;

140 (4) The number of instances since the last nurse staffing plan was  
141 submitted when the hospital was not in compliance with such plan,  
142 including, but not limited to, the nurse staffing ratios set forth in such  
143 plan, and a description of how and why such plan was not complied

144 with and plans to avoid future noncompliance with such plan; and

145 (5) Certification that the hospital and its hospital staffing committee  
146 are meeting the requirements set forth in this section and a description  
147 of how each requirement is being met.

148 (f) (1) If the hospital staffing committee does not adopt a nurse  
149 staffing plan by a majority vote pursuant to subdivision (3) of subsection  
150 (c) of this section or adopts only a part of a nurse staffing plan on or  
151 before the deadline to submit such plan to the Department of Public  
152 Health and the State-wide Staffing Oversight Committee set forth in  
153 subsection (b) of this section, the hospital shall submit such plan and  
154 any disputed parts of such plan to the department and the State-wide  
155 Staffing Oversight Committee along with a notification of impasse on  
156 such plan.

157 (2) If the hospital staffing committee provides notification of impasse  
158 on a nurse staffing plan, representatives from the State-wide Staffing  
159 Oversight Committee shall meet with the committee not later than thirty  
160 calendar days after such notification to serve as mediators and assist the  
161 committee in reaching an agreement on such plan.

162 (3) If the hospital staffing committee does not approve a nurse  
163 staffing plan on or before thirty days after a meeting conducted  
164 pursuant to subdivision (2) of this subsection, either cochairperson of  
165 the hospital staffing committee may submit written notice to the  
166 department and the State-wide Staffing Oversight Committee  
167 requesting that said committee mediate any disputes concerning such  
168 plan or requesting binding arbitration.

169 (4) The State-wide Staffing Oversight Committee members shall  
170 serve as an arbitration panel if either cochairperson of a hospital staffing  
171 committee requests binding arbitration pursuant to subdivision (3) of  
172 this subsection. The arbitration panel shall schedule binding arbitration  
173 not later than thirty calendar days after the request for arbitration.

174 (5) The arbitration panel may hold a hearing and consider written

175 and oral testimony, evidence and arguments presented by both sides of  
176 the issue at impasse. Formal rules of evidence shall not apply to the  
177 binding arbitration. The panel shall issue a decision on each disputed  
178 part of the nurse staffing plan not later than sixty days after the last day  
179 of submission of evidence and arguments. The decision shall be based  
180 on the version or versions of the nurse staffing plan submitted by the  
181 cochairpersons.

182 (6) A hospital staffing committee shall not resubmit to binding  
183 arbitration a disputed issue involving the same set of facts that was  
184 resolved through binding arbitration less than eighteen months after the  
185 date of the decision of the arbitration panel, unless approved by a  
186 majority vote of the hospital staffing committee.

187 (g) Each hospital shall post the nurse staffing plan developed and  
188 adopted pursuant to subsections (b) to (f), inclusive, of this section on  
189 each patient care unit in a conspicuous location visible and accessible to  
190 staff, patients and members of the public. Each hospital shall maintain  
191 accurate records, for not less than the preceding three years, of the ratios  
192 of patients to direct care registered nurses and patients to assistive  
193 personnel providing patient care in each direct care unit for each shift.  
194 Such records shall include the number of (1) patients in each unit on  
195 each shift, (2) direct care registered nurses assigned to each patient in  
196 each unit on each shift, and (3) assistive personnel providing patient  
197 care assigned to each patient in each unit on each shift. Each hospital  
198 shall make such records available, upon request, to the Department of  
199 Public Health, the State-wide Staffing Oversight Committee established  
200 pursuant to subsection (h) of this section, the staff of the hospital, any  
201 collective bargaining unit representing such staff, the patients of the  
202 hospital and members of the general public.

203 (h) (1) There is established a State-wide Staffing Oversight  
204 Committee, which shall be within the Department of Public Health for  
205 administrative purposes only. The committee shall consist of the  
206 following members: (A) Eight appointed by the Governor, two of whom  
207 are direct care registered nurses licensed pursuant to chapter 378 who

208 are representing an association of nurses in the state, two of whom are  
209 direct care registered nurses licensed pursuant to chapter 378 who are  
210 representing a hospital association in the state, two of whom are direct  
211 care registered nurses licensed pursuant to chapter 378 who are  
212 representing a state-wide labor federation that represents nurses for  
213 purposes of collective bargaining, and two of whom are assistive  
214 personnel who are representing a state-wide labor federation that  
215 represents assistive personnel for purposes of collective bargaining; and  
216 (B) the Commissioner of Public Health, or the commissioner's designee.  
217 The committee shall elect cochairpersons from among its members.  
218 Committee members shall serve without compensation.

219 (2) The State-wide Staffing Oversight Committee shall: (A) Make  
220 recommendations to the Department of Public Health regarding the  
221 creation of a standardized data collection tool to be used for reporting  
222 regarding hospital staffing; (B) review the nurse staffing plans of each  
223 hospital staffing committee; (C) serve as mediators when necessary to  
224 assist hospital staffing committees in reaching an agreement on a nurse  
225 staffing plan; and (D) serve as an arbitration panel when a hospital  
226 staffing committee is unable to reach an agreement on a nurse staffing  
227 plan after mediation.

228 (3) Not later than February 1, 2024, and annually thereafter until  
229 February 1, 2029, the State-wide Staffing Oversight Committee shall  
230 report, in accordance with the provisions of section 11-4a, to the joint  
231 standing committee of the General Assembly having cognizance of  
232 matters relating to public health regarding its review of nurse staffing  
233 plans, any recommendations for improvements in monitoring nurse  
234 staffing plan data and any recommendations for ensuring compliance  
235 with nurse staffing plans and the provisions of this section, including,  
236 but not limited to, corrective action plans, fines and public disclosure of  
237 violations of a nurse staffing plan or revisions to the provisions of this  
238 section.

239 (i) A registered nurse may object to or refuse to participate in any  
240 activity, policy, practice or task assigned by a hospital, provided the



241 registered nurse acts in good faith and, in the registered nurse's  
242 professional judgment, the registered nurse (1) reasonably believes  
243 participation in the activity, policy, practice or task would violate a  
244 provision of this section, or (2) is not prepared by education, training or  
245 experience to participate in the activity, policy, practice or task without  
246 compromising the safety of a patient or jeopardizing the registered  
247 nurse's license. No hospital shall discharge, retaliate against,  
248 discriminate against or take any other adverse action against a  
249 registered nurse or any aspect of the registered nurse's employment,  
250 including, but not limited to, discharge, promotion, reduction in  
251 compensation or changes to terms, conditions or privileges of  
252 employment, as a result of such objection or refusal by the registered  
253 nurse, participation by the registered nurse in a hospital staffing  
254 committee or raising of concerns by the registered nurse regarding  
255 unsafe staffing or workplace violence, racism or bullying. No hospital  
256 shall file a complaint or report against a registered nurse with the  
257 Department of Public Health as a result of such objection or refusal,  
258 participation or raising of concerns. Any registered nurse or collective  
259 bargaining representative or legal representative of a registered nurse  
260 who has been discharged, discriminated against or retaliated against in  
261 violation of the provisions of this subsection, or against whom a  
262 complaint or report has been filed in violation of such provisions, may  
263 bring a civil action against the hospital. A registered nurse who prevails  
264 in such cause of action shall be entitled to one or more of the following:  
265 (A) Reinstatement of employment; (B) reimbursement of lost wages,  
266 compensation and benefits; (C) attorney's fees; (D) court costs; and (E)  
267 any other relevant damages.

268 [(d)] (j) On or before January 1, 2016, and annually thereafter, the  
269 Commissioner of Public Health shall report, in accordance with the  
270 provisions of section 11-4a, to the joint standing committee of the  
271 General Assembly having cognizance of matters relating to public  
272 health concerning hospital compliance with reporting requirements  
273 under this section and recommendations concerning any additional  
274 reporting requirements.

275 (k) On and after July 1, 2025, if a hospital is not in compliance with at  
276 least eighty per cent of the nurse staffing assignments set forth in the  
277 nurse staffing plan developed pursuant to subsections (b) to (g),  
278 inclusive, of this section, the hospital shall report, not later than seven  
279 calendar days after the last day of the month in which the hospital was  
280 out of compliance, to the Department of Public Health regarding such  
281 noncompliance.

282 (l) (1) If the Department of Public Health receives a complaint from a  
283 hospital staff member or such staff member's collective bargaining  
284 representative of a violation of any provision of this section, the  
285 Commissioner of Public Health shall open an investigation of the  
286 hospital and provide a notice of the investigation to the cochairpersons  
287 of the hospital's staffing committee.

288 (2) In conducting an investigation under this subsection, the  
289 commissioner may: (A) Make an on-site inspection of the unit of the  
290 hospital that is the subject of the complaint; (B) interview the manager  
291 and any other employees of the unit to obtain information relevant to  
292 the complaint; (C) interview the cochairpersons of the hospital staffing  
293 committee; and (D) compel the production of books, papers, accounts,  
294 documents and testimony pertaining to the complaint.

295 (m) For a failure by a hospital to (1) establish or maintain a hospital  
296 staffing committee pursuant to subsection (c) of this section, (2) submit  
297 a staffing plan to the department or State-wide Staffing Oversight  
298 Committee pursuant to subsection (b) of this section, (3) post the staffing  
299 plan pursuant to subsection (g) of this section, or (4) comply with at least  
300 eighty per cent of the nurse staffing assignments set forth in the nurse  
301 staffing plan pursuant to subsection (k) of this section, the  
302 Commissioner of Public Health shall:

303 (A) Issue a corrective action plan to the hospital for the first violation;

304 (B) Impose a civil penalty of not less than seven hundred fifty dollars  
305 and not more than one thousand five hundred dollars for a second  
306 violation; and

307 (C) Impose a civil penalty of not less than one thousand five hundred  
308 dollars and not more than three thousand dollars for each subsequent  
309 violation.

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

312 (a) As used in this section:

313 (1) "Nurse" means a registered nurse or a practical nurse licensed  
314 pursuant to chapter 378, or a nurse's aide registered pursuant to chapter  
315 378a; [and]

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

318 (3) "Overtime" means working (A) in excess of a predetermined  
319 scheduled work shift, regardless of the length of such scheduled work  
320 shift, provided such scheduled work shift is determined and  
321 communicated not less than forty-eight hours prior to the  
322 commencement of such scheduled work shift, (B) more than twelve  
323 hours in a twenty-four-hour period, (C) during the ten-hour period  
324 immediately following the end of the previous work shift of eight hours  
325 or more, or (D) more than forty-eight hours in any hospital-defined  
326 work week.

327 (b) [No] Except as provided in this section, no hospital [may] shall  
328 require a nurse to work [in excess of a predetermined scheduled work  
329 shift, provided such scheduled work shift is determined and  
330 promulgated not less than forty-eight hours prior to the commencement  
331 of such scheduled work shift] overtime. No hospital shall discriminate  
332 against, discharge, discipline, threaten to discharge or discipline or  
333 otherwise retaliate against a nurse for refusing to work overtime.

334 (c) Any nurse may volunteer or agree to work [hours in addition to  
335 such scheduled work shift but the refusal by a nurse to accept such  
336 additional hours shall not be grounds for discrimination, dismissal,

337 discharge or any other penalty or employment decision adverse to the  
338 nurse] overtime.

339 [(c) The] (d) When the safety of a patient requires and when there is  
340 no reasonable alternative, the provisions of subsection (b) of this section  
341 shall not apply: (1) To any nurse participating in [a] an ongoing surgical  
342 procedure until such procedure is completed; (2) to any nurse working  
343 in a critical care unit until such nurse is relieved by another nurse who  
344 is commencing a scheduled work shift; (3) in the case of a public health  
345 emergency; or (4) in the case of an institutional emergency, including,  
346 but not limited to, adverse weather conditions, catastrophe or  
347 widespread illness, that in the opinion of the hospital administrator will  
348 significantly reduce the number of nurses available for a scheduled  
349 work shift, provided the hospital administrator has made a good faith  
350 effort to mitigate the impact of such institutional emergency on the  
351 availability of nurses. ]; or (5) to any nurse who is covered by a collective  
352 bargaining agreement that contains provisions addressing the issue of  
353 mandatory overtime.]

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

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

367 (2) The provisions of this section shall not prohibit mandatory  
368 overtime with respect to any nurse who is covered by a bona fide

369 collective bargaining agreement that is in effect prior to October 1, 2023,  
 370 or by a bona fide collective bargaining agreement entered into pursuant  
 371 to chapter 68 that is in effect prior to June 1, 2027, and contains  
 372 provisions addressing the issue of mandatory overtime, until the  
 373 expiration date of the collective bargaining agreement.

374 (3) The provisions of this section shall not prohibit mandatory  
 375 overtime with respect to any nurse who is covered by a bona fide  
 376 collective bargaining agreement under chapter 68 to the extent such  
 377 collective bargaining agreement permits mandatory overtime, provided  
 378 mandatory overtime for reasons set forth in subsection (d) of this section  
 379 shall be a mandatory subject of bargaining, and mandatory overtime for  
 380 reasons other than those set forth in subsection (d) of this section shall  
 381 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-490l