

By Senator Dawson

29-1412A-03

1                                   A bill to be entitled  
2           An act relating to the staffing of health care  
3           facilities; providing a short title; providing  
4           legislative findings; defining terms;  
5           prescribing facility staffing standards  
6           relating to nurse-to-patient ratios, staffing  
7           plans, and the minimum skill mix; allowing the  
8           implementation of higher staffing levels;  
9           providing recordkeeping requirements;  
10          prohibiting mandatory overtime and excessive  
11          duty hours; allowing voluntary overtime work;  
12          providing a statement of employee rights;  
13          providing for the Agency for Health Care  
14          Administration to ensure compliance with the  
15          act and to adopt rules; providing an effective  
16          date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Short title.--This act may be cited as "The  
21 Safe Staffing for Quality Care Act."

22           Section 2. Legislative findings.--The Legislature  
23 finds that:

24           (1) The state has a substantial interest in assuring  
25 that delivery of health care services to patients in health  
26 care facilities located within this state is adequate and safe  
27 and that health care facilities retain sufficient nursing  
28 staff so as to promote optimal health care outcomes.

29           (2) Recent changes in our health care delivery system  
30 are resulting in a higher acuity level among patients in  
31 health care facilities.

**CODING:**Words ~~stricken~~ are deletions; words underlined are additions.

1           (3) Extensive research indicates that inadequate  
2 registered-nurse staffing in hospitals can result in increased  
3 patient death rates, dangerous medical errors, and increased  
4 length of stay.

5           (4) To ensure the adequate protection and care for  
6 patients in health care facilities, it is essential that  
7 qualified registered nurses be accessible and available to  
8 meet the nursing needs of patients.

9           Section 3. Definitions.--As used in this act, the  
10 term:

11           (1) "Acuity system" means an established measurement  
12 instrument that:

13           (a) Predicts nursing care requirements for individual  
14 patients based on severity of patient illness, need for  
15 specialized equipment and technology, intensity of nursing  
16 interventions required, and the complexity of clinical nursing  
17 judgment needed to design, implement, and evaluate the  
18 patient's nursing care plan;

19           (b) Details the amount of nursing care needed, both in  
20 number of registered nurses and in skill mix of nursing  
21 personnel required daily for each patient in a nursing  
22 department or unit; and

23           (c) Is stated in terms that can be readily used and  
24 understood by direct-care nursing staff.

25           (2) "Assessment tool" means a measurement system that  
26 compares the staffing level in each nursing department or unit  
27 to actual patient nursing care requirements in order to review  
28 the accuracy of an acuity system.

29           (3) "Documented staffing plan" means a detailed  
30 written plan setting forth the minimum number, skill mix, and  
31 classification of licensed nurses required in each nursing

1 department or unit in the health facility for a given year,  
2 based on reasonable projections derived from the patient  
3 census and average acuity level within each department or unit  
4 during the previous year, the department or unit size and  
5 geography, the nature of services provided, and any foreseeable  
6 changes in department or unit size or function during the  
7 current year.

8 (4) "Critical care unit" means a unit of a hospital  
9 which is established to safeguard and protect patients the  
10 severity of whose medical conditions requires continuous  
11 monitoring and complex nursing intervention.

12 (5) "Declared state of emergency" means an officially  
13 designated state of emergency which has been declared by a  
14 federal, state, or local government official who has the  
15 authority to declare that the state, county, municipality, or  
16 locality is in a state of emergency, but does not include a  
17 state of emergency which results from a labor dispute in the  
18 health care industry.

19 (6) "Direct-care nurse" or "direct-care nursing staff"  
20 means any registered nurse who has direct responsibility to  
21 oversee or carry out medical regimens or nursing care for one  
22 or more patients. Only registered nurses who have specific  
23 patient care assignments shall be included in the calculation  
24 of the registered nurse-to-patient ratio.

25 (7) "Health care facility" means an acute care  
26 hospital; an emergency care, ambulatory, or outpatient surgery  
27 facility licensed under section 395.003, Florida Statutes; or  
28 a psychiatric facility licensed under chapter 394, Florida  
29 Statutes.

30 (8) "Nurse" means a registered nurse.  
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1           (9) "Nursing care means care that falls within the  
2 scope of practice set forth in chapter 464, Florida Statutes,  
3 and other laws and regulations or that is otherwise  
4 encompassed within recognized professional standards of  
5 nursing practice, including assessment, nursing diagnosis,  
6 planning, intervention, evaluation, and patient advocacy.

7           (10) "Off-duty" means that the individual has no  
8 restrictions placed on his or her whereabouts and is free of  
9 all restraint or duty on behalf of the health care facility.

10           (11) "On-duty" means that the individual is required  
11 to be available and ready to perform services on request  
12 within or on behalf of the health care facility and includes  
13 any rest periods or breaks during which the individual's  
14 ability to leave the health care facility is restricted either  
15 expressly or by work-related circumstances beyond the  
16 individual's control.

17           (12) "Overtime" means the hours worked in excess of  
18 any of the following:

19           (a) An agreed-upon, predetermined, regularly scheduled  
20 shift;

21           (b) Twelve hours in a 24-hour period; or

22           (c) Eighty hours in a consecutive 14-day period.

23           (13) "On-call time" means time spent by an employee  
24 who is not working on the premises of the place of employment  
25 but who is compensated for availability or who, as a condition  
26 of employment, has agreed to be available to return to the  
27 premises of the place of employment on short notice if the  
28 need arises.

29           (14) "Reasonable efforts" in reference to the  
30 prohibition on mandatory overtime means that the employer does  
31 all of the following but is unable to obtain staff coverage:

1           (a) Seeks individuals to volunteer to work extra time  
2 from all available qualified staff who are working;

3           (b) Contacts qualified employees who have made  
4 themselves available to work extra time;

5           (c) Seeks the use of per diem staff; and

6           (d) Seeks personnel from a contracted temporary agency  
7 if such staffing is permitted by law or an applicable  
8 collective bargaining agreement.

9           (15) "Unforeseeable emergent circumstance" means:

10           (a) Any unforeseen declared national, state, or  
11 municipal emergency;

12           (b) A situation in which a health care facility  
13 disaster plan is activated; or

14           (c) Any unforeseen disaster or other catastrophic event  
15 that substantially affects or increases the need for health  
16 care services.

17           (16) "Skill mix" means the differences in licensing,  
18 specialty, and experience among direct-care nurses.

19           (17) "Staffing level" means the actual numerical  
20 registered nurse-to-patient ratio within a nursing department  
21 or unit.

22           Section 4. Facility staffing standards.--

23           (1) SPECIFIC STANDARDS.--Hospitals shall provide  
24 staffing by registered nurses in accordance with the following  
25 maximum patient assignments in the units specified. Additional  
26 registered nurse staffing, auxiliary staffing by nurses other  
27 than registered nurses or staffing by other healthcare  
28 professionals are not included in these ratios and shall be  
29 determined pursuant to the patient classification system as  
30 provided in paragraph (b). Nurse-to-patient ratios represent  
31 the maximum number of patients which shall be assigned to one

1 registered nurse during one shift. Only nurses providing  
2 direct patient care shall be included in the ratios. This  
3 section does not prohibit a registered nurse from providing  
4 care within the scope of his or her practice to a patient who  
5 is assigned to another nurse.

6 (a) There shall be a maximum of two patients assigned  
7 to each registered nurse so that the minimum registered  
8 nurse-to-patient ratio in a critical care unit must be 1:2 or  
9 fewer at any time. As used in this paragraph, the term

10 "critical care unit" means a nursing unit of a general acute  
11 care hospital which provides one of the following services: an  
12 intensive care service, a burn center, a coronary care  
13 service, or an acute respiratory service. In the intensive  
14 care newborn nursery service, a maximum of two patients shall  
15 be assigned to each registered nurse.

16 (b) The surgical service operating room shall have a  
17 maximum of one patient-occupied operating room assigned to  
18 each registered nurse.

19 (c) There shall be a maximum of two patients assigned  
20 to each registered nurse in a labor and delivery suite of the  
21 perinatal service so that the registered nurse-to-patient  
22 ratio shall be 1:2 or fewer at any time.

23 (d) There shall be a maximum of two patients assigned  
24 to each registered nurse in a labor/delivery unit.

25 (e) There shall be a maximum of three mother-baby  
26 couplets assigned to each registered nurse in a postpartum  
27 area of the perinatal unit at any time. In the event of  
28 multiple births, the total number of mothers plus infants  
29 assigned to a single registered nurse shall never exceed six.

30 (f) There shall be a maximum of two patients assigned  
31 to each registered nurse in a postanesthesia recovery unit.

1           (g) In a hospital providing basic emergency medical  
2 services or comprehensive emergency medical services, there  
3 shall be a maximum of three patients who are receiving  
4 emergency treatment assigned to each registered nurse so that  
5 the registered nurse-to-patient ratio in an emergency  
6 department shall be 1:3 or fewer at any time patients are  
7 receiving treatment. There shall be no fewer than two  
8 registered nurses physically present in the emergency  
9 department when a patient is present.

10           (h) The nurse assigned to triage patients shall not  
11 have a patient assignment, shall not be assigned  
12 responsibility for the base ratio, and shall not be counted in  
13 the registered nurse-to-patient ratio.

14           (i) When nursing staff are attending critical care  
15 patients in the emergency department, there shall be a maximum  
16 of two patients assigned to each registered nurse. When  
17 nursing staff in the emergency department are attending trauma  
18 patients, there shall be a maximum of one patient assigned to  
19 each registered nurse at any time.

20           (j) There shall be a maximum of three patients  
21 assigned to each registered nurse in a step-down unit so that  
22 the minimum registered nurse-to-patient ratio shall be 1:3 or  
23 fewer at any time. As used in this paragraph, the term:

24           1. "Artificial life support" means a system that uses  
25 medical technology to aid, support, or replace a vital  
26 function of the body which has been seriously damaged.

27           2. "Step-down unit" means a unit that is organized,  
28 operated, and maintained to provide for the monitoring and  
29 care of patients with moderate or potentially severe  
30 physiologic instability requiring technical support but not  
31 necessarily artificial life support.

1           3. "Technical support" means specialized equipment or  
2 personnel, or both, providing for invasive monitoring,  
3 telemetry, and mechanical ventilation, for the immediate  
4 amelioration or remediation of severe pathology for those  
5 patients requiring less care than intensive care but more than  
6 that which is available from medical/surgical care.

7           (k) There shall be a maximum of three patients  
8 assigned to each registered nurse so that the minimum  
9 registered nurse-to-patient ratio in a telemetry unit shall be  
10 1:3 or fewer at any time. As used in this paragraph, the term  
11 "telemetry unit" means a unit designated for the electronic  
12 monitoring, recording, retrieval, and display of cardiac  
13 electrical signals.

14           (l) There shall be a maximum of four patients assigned  
15 to each registered nurse so that the minimum registered  
16 nurse-to-patient ratio in medical/surgical care units shall be  
17 1:4 or fewer at any time. A medical/surgical unit is a unit  
18 with beds classified as medical/surgical in which patients who  
19 require less care than that which is available in intensive  
20 care units or step-down units receive 24-hour inpatient  
21 general medical services, postsurgical services, or both  
22 general medical and postsurgical services. Such a unit may  
23 include mixed patient populations of diverse diagnoses and  
24 diverse age groups.

25           (m) There shall be a maximum of four patients assigned  
26 to each registered nurse so that the minimum registered  
27 nurse-to-patient ratio in a specialty care unit shall be 1:4  
28 or fewer at any time. A specialty care unit is a unit that is  
29 organized, operated, and maintained to provide care for a  
30 specific medical condition or a specific patient population,  
31 is more comprehensive for the specific condition or disease



1 process than that which is available on medical/surgical  
2 units, and is not otherwise specifically covered in this  
3 section.

4 (n) There shall be a maximum of four patients assigned  
5 to each registered nurse so that the minimum registered  
6 nurse-to-patient ratio in an acute care psychiatric unit shall  
7 be 1:4 or fewer at any time.

8 (o) Identifying a unit by a name or term other than  
9 those used in this subsection does not affect the requirement  
10 to staff at the ratios identified for the level or type of  
11 care described in this subsection.

12 (2) STAFFING PLAN.--To ensure that it is staffed in a  
13 manner that provides sufficient, appropriately qualified  
14 nursing staff of each classification in each department or  
15 unit within the facility in order to meet the individualized  
16 care needs of the patients therein and to meet the  
17 requirements for registered nurse staffing set forth in  
18 subsection (1), each health care facility licensed under this  
19 statute shall annually submit to the Agency for Health Care  
20 Administration a documented staffing plan, together with a  
21 written certification that the staffing plan is sufficient to  
22 provide adequate and appropriate delivery of health care  
23 services to patients for the ensuing year. The staffing plan  
24 must:

25 (a) Meet the minimum requirements set forth in  
26 subsection (1);

27 (b) Be adequate to meet any additional requirements  
28 provided by other laws or regulations;

29 (c) Employ and identify an approved acuity system for  
30 addressing fluctuations in actual patient acuity levels and  
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1 nursing care requirements requiring increased staffing levels  
2 above the minimums set forth in the plan;

3 (d) Factor in other unit or department activity, such  
4 as discharges, transfers and admissions, and administrative  
5 and support tasks, which is expected to be done by direct-care  
6 nurses in addition to direct nursing care;

7 (e) Identify the assessment tool used to validate the  
8 acuity system relied on in the plan;

9 (f) Identify the system that will be used daily to  
10 document actual staffing within each department or unit;

11 (g) Include a written assessment of the accuracy of  
12 the previous year's staffing plan in light of actual staffing  
13 needs;

14 (h) Identify each nurse staff classification  
15 referenced therein together with a statement setting forth  
16 minimum qualifications for each such classification; and

17 (i) Be developed in consultation with the direct-care  
18 nursing staff within each department or unit or, if such staff  
19 is represented, with the applicable recognized or certified  
20 collective-bargaining representatives of the direct-care  
21 nursing staff.

22 (3) MINIMUM SKILL MIX.--The skill mix reflected in a  
23 staffing plan must assure that all of the following elements  
24 of the nursing process are performed in the planning and  
25 delivery of care for each patient: assessment, nursing  
26 diagnosis, planning, intervention, evaluation, and patient  
27 advocacy.

28 (a) The skill mix may not incorporate or assume that  
29 nursing care functions required by licensing law or  
30 regulations or accepted standards of practice to be performed  
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1 by a registered nurse or licensed practical nurse are to be  
2 performed by unlicensed assistant personnel.

3 (b) A nurse may not be assigned, or included in the  
4 count of assigned nursing staff for purposes of compliance  
5 with minimum staffing requirements, in a nursing department or  
6 unit or a clinical area within the health facility unless the  
7 nurse is qualified in the area of practice to which the nurse  
8 is assigned.

9 (4) COMPLIANCE WITH PLAN.--As a condition of  
10 licensing, a health care facility must at all times staff in  
11 accordance with its staffing plan and the staffing standards  
12 set forth in this section; however, this section does not  
13 preclude a health care facility's implementing higher  
14 direct-care nurse-to-patient staffing levels.

15 (5) RECORDKEEPING.--The facility shall maintain  
16 records sufficient to allow the agency to determine the daily  
17 staffing ratios and skill mixes that the facility maintained  
18 on each unit.

19 Section 5. Mandatory overtime and excessive duty  
20 hours.--

21 (1) PROHIBITION OF MANDATORY OVERTIME.--An employee of  
22 a health care facility may not be required to work overtime as  
23 defined in section 3 of this act. Compelling or attempting to  
24 compel an employee to work overtime is contrary to public  
25 policy and is a violation of this section. The acceptance by  
26 any employee of overtime work is strictly voluntary, and the  
27 refusal of an employee to accept such overtime work is not  
28 grounds for discrimination, dismissal, discharge, or any other  
29 penalty; threats of reports for discipline; or employment  
30 decisions adverse to the employee.

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1           (2) APPLICABILITY.--This section does not apply to  
2 work that occurs:

3           (a) Because of any unforeseeable emergent  
4 circumstance;

5           (b) During prescheduled on-call time if, as of July 1,  
6 2003, such prescheduled on-call time was a customary and  
7 longstanding practice in the unit or department of the health  
8 care facility; or

9           (c) Because of unpredictable and unavoidable  
10 occurrences relating to health care delivery which occur at  
11 unscheduled intervals and require immediate action, if the  
12 employer shows that the employer has exhausted reasonable  
13 efforts to obtain staffing. An employer has not used  
14 reasonable efforts if overtime work is used to fill vacancies  
15 resulting from chronic staff shortages.

16           (3) This section does not prohibit a health care  
17 employee from voluntarily working overtime.

18           Section 6. Employee rights.--

19           (1) RIGHT TO REFUSE ASSIGNMENT UNDER CONDITIONS THAT  
20 WOULD VIOLATE STANDARDS.--A health facility covered by this  
21 act shall not penalize, discriminate against, or retaliate in  
22 any manner against a direct-care registered nurse for refusing  
23 an assignment that would violate requirements set forth in  
24 this act.

25           (2) RIGHT TO REPORT VIOLATIONS OF SAFE STAFFING  
26 STANDARDS.--A health facility covered by this act shall not  
27 penalize, discriminate against, or retaliate in any manner  
28 against an employee with respect to compensation, terms, or  
29 conditions or privileges of employment if such an employee in  
30 good faith, individually or in conjunction with another person  
31 or persons:

1       (a) Reports a violation or suspected violation of this  
2 act to a public regulatory agency, a private accreditation  
3 body, or management personnel of the health care facility;

4       (b) Initiates, cooperates, or otherwise participates  
5 in an investigation or proceeding brought by a regulatory  
6 agency or private accreditation body concerning matters  
7 covered by this act;

8       (c) Informs or discusses with other employees, with  
9 representatives of the employees, with patients or patient  
10 representatives, or with the public violations or suspected  
11 violations of this act; or

12       (d) Otherwise avails himself or herself of the rights  
13 set forth in this act.

14       (3) For purposes of this section, an employee is  
15 acting in good faith if the employee reasonably believes that  
16 the information reported or disclosed is true and that a  
17 violation has occurred or may occur.

18       Section 7. Implementation and enforcement.--

19       (1) The Agency for Health Care Administration shall  
20 ensure general compliance with the staffing plans and  
21 standards set forth in this act. The agency may adopt such  
22 rules as are necessary to implement this act. At a minimum,  
23 the rules must provide for:

24       (a) Unannounced, random compliance site visits to  
25 licensed health care facilities that are covered by the act;

26       (b) An accessible and confidential system by which the  
27 public and nursing staff can report a health facility's  
28 failure to comply with this act;

29       (c) A systematic means for investigating and  
30 correcting violations of the act;

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1           (d) A graduated system of penalties, including fines,  
 2 withholding of reimbursement, suspension of admission to  
 3 specific units, and other appropriate measures, if violations  
 4 are not corrected;

5           (e) Public access to information regarding reports of  
 6 inspections, results, deficiencies, and corrections.

7           (2) The agency shall develop rules to administer this  
 8 act which require compliance with the staffing standards for  
 9 critical care units by July 1, 2004, and compliance with all  
 10 provisions of this act by July 1, 2006.

11           Section 8. This act shall take effect July 1, 2003.

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14    SENATE SUMMARY

15           Creates "The Safe Staffing for Quality Care Act,"  
 16 relating to staffing in health care facilities. Provides  
 17 facility staffing standards. Prohibits mandatory overtime  
 18 and excessive duty hours. Allows voluntary overtime  
 19 hours. Provides a statement of employee rights. Requires  
 20 the Agency for Health Care Administration to ensure  
 21 compliance with the act and to adopt rules for  
 22 administering the act.  
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