



HB 0043B

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1 A bill to be entitled

2 An act relating to the staffing of health care facilities;
3 providing a popular name; providing legislative findings;
4 defining terms; prescribing facility staffing standards
5 relating to nurse-to-patient ratios, staffing plans, and
6 the minimum skill mix; allowing the implementation of
7 higher staffing levels; providing recordkeeping
8 requirements; prohibiting mandatory overtime and excessive
9 duty hours; allowing voluntary overtime work; providing a
10 statement of employee rights; providing for the Agency for
11 Health Care Administration to ensure compliance with the
12 act and to adopt rules; providing for construction of the
13 act in pari materia with laws enacted during the 2003
14 Regular Session or the 2003 Special Session A of the
15 Legislature; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Popular name.--This act shall be known by the
20 popular name "The Safe Staffing for Quality Care Act."

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

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

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



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

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

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

40 (1) "Acuity system" means an established measurement
41 instrument that:

42 (a) Predicts nursing care requirements for individual
43 patients based on severity of patient illness, need for
44 specialized equipment and technology, intensity of nursing
45 interventions required, and the complexity of clinical nursing
46 judgment needed to design, implement, and evaluate the patient's
47 nursing care plan;

48 (b) Details the amount of nursing care needed, both in
49 number of registered nurses and in skill mix of nursing
50 personnel required daily for each patient in a nursing
51 department or unit; and

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

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

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



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61 department or unit in the health facility for a given year,
62 based on reasonable projections derived from the patient census
63 and average acuity level within each department or unit during
64 the previous year, the department or unit size and geography,
65 the nature of services provided, and any foreseeable changes in
66 department or unit size or function during the current year.

67 (4) "Critical care unit" means a unit of a hospital which
68 is established to safeguard and protect patients the severity of
69 whose medical conditions requires continuous monitoring and
70 complex nursing intervention.

71 (5) "Declared state of emergency" means an officially
72 designated state of emergency which has been declared by a
73 federal, state, or local government official who has the
74 authority to declare that the state, county, municipality, or
75 locality is in a state of emergency, but does not include a
76 state of emergency which results from a labor dispute in the
77 health care industry.

78 (6) "Direct-care nurse" or "direct-care nursing staff"
79 means any registered nurse who has direct responsibility to
80 oversee or carry out medical regimens or nursing care for one or
81 more patients. Only registered nurses who have specific patient
82 care assignments shall be included in the calculation of the
83 registered nurse-to-patient ratio.

84 (7) "Health care facility" means an acute care hospital;
85 an emergency care, ambulatory, or outpatient surgery facility
86 licensed under section 395.003, Florida Statutes; or a
87 psychiatric facility licensed under chapter 394, Florida
88 Statutes.

89 (8) "Nurse" means a registered nurse.



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90 (9) "Nursing care" means care that falls within the scope
91 of practice set forth in chapter 464, Florida Statutes, and
92 other laws and regulations or that is otherwise encompassed
93 within recognized professional standards of nursing practice,
94 including assessment, nursing diagnosis, planning, intervention,
95 evaluation, and patient advocacy.

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

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

105 (12) "Overtime" means the hours worked in excess of any of
106 the following:

107 (a) An agreed-upon, predetermined, regularly scheduled
108 shift;

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

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

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

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



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

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

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

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

127 (15) "Unforeseeable emergent circumstance" means:

128 (a) Any unforeseen declared national, state, or municipal
129 emergency;

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

132 (c) Any unforeseen disaster or other catastrophic event
133 that substantially affects or increases the need for health care
134 services.

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

137 (17) "Staffing level" means the actual numerical
138 registered nurse-to-patient ratio within a nursing department or
139 unit.

140 Section 4. Facility staffing standards.--

141 (1) SPECIFIC STANDARDS.--Hospitals shall provide staffing
142 by registered nurses in accordance with the following maximum
143 patient assignments in the units specified. Additional
144 registered nurse staffing, auxiliary staffing by nurses other
145 than registered nurses or staffing by other healthcare
146 professionals are not included in these ratios and shall be
147 determined pursuant to the patient classification system as
148 provided in paragraph (b). Nurse-to-patient ratios represent the



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149 maximum number of patients which shall be assigned to one
150 registered nurse during one shift. Only nurses providing direct
151 patient care shall be included in the ratios. This section does
152 not prohibit a registered nurse from providing care within the
153 scope of his or her practice to a patient who is assigned to
154 another nurse.

155 (a) There shall be a maximum of two patients assigned to
156 each registered nurse so that the minimum registered nurse-to-
157 patient ratio in a critical care unit must be 1:2 or fewer at
158 any time. As used in this paragraph, the term "critical care
159 unit" means a nursing unit of a general acute care hospital
160 which provides one of the following services: an intensive care
161 service, a burn center, a coronary care service, or an acute
162 respiratory service. In the intensive care newborn nursery
163 service, a maximum of two patients shall be assigned to each
164 registered nurse.

165 (b) The surgical service operating room shall have a
166 maximum of one patient-occupied operating room assigned to each
167 registered nurse.

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

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

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



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

181 (g) In a hospital providing basic emergency medical
182 services or comprehensive emergency medical services, there
183 shall be a maximum of three patients who are receiving emergency
184 treatment assigned to each registered nurse so that the
185 registered nurse-to-patient ratio in an emergency department
186 shall be 1:3 or fewer at any time patients are receiving
187 treatment. There shall be no fewer than two registered nurses
188 physically present in the emergency department when a patient is
189 present.

190 (h) The nurse assigned to triage patients shall not have a
191 patient assignment, shall not be assigned responsibility for the
192 base ratio, and shall not be counted in the registered nurse-to-
193 patient ratio.

194 (i) When nursing staff are attending critical care
195 patients in the emergency department, there shall be a maximum
196 of two patients assigned to each registered nurse. When nursing
197 staff in the emergency department are attending trauma patients,
198 there shall be a maximum of one patient assigned to each
199 registered nurse at any time.

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

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

207 2. "Step-down unit" means a unit that is organized,
208 operated, and maintained to provide for the monitoring and care



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209 of patients with moderate or potentially severe physiologic
210 instability requiring technical support but not necessarily
211 artificial life support.

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

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

224 (l) There shall be a maximum of four patients assigned to
225 each registered nurse so that the minimum registered nurse-to-
226 patient ratio in medical/surgical care units shall be 1:4 or
227 fewer at any time. A medical/surgical unit is a unit with beds
228 classified as medical/surgical in which patients who require
229 less care than that which is available in intensive care units
230 or step-down units receive 24-hour inpatient general medical
231 services, postsurgical services, or both general medical and
232 postsurgical services. Such a unit may include mixed patient
233 populations of diverse diagnoses and diverse age groups.

234 (m) There shall be a maximum of four patients assigned to
235 each registered nurse so that the minimum registered nurse-to-
236 patient ratio in a specialty care unit shall be 1:4 or fewer at
237 any time. A specialty care unit is a unit that is organized,
238 operated, and maintained to provide care for a specific medical



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239 condition or a specific patient population, is more
 240 comprehensive for the specific condition or disease process than
 241 that which is available on medical/surgical units, and is not
 242 otherwise specifically covered in this section.

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

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

251 (2) STAFFING PLAN.--To ensure that it is staffed in a
 252 manner that provides sufficient, appropriately qualified nursing
 253 staff of each classification in each department or unit within
 254 the facility in order to meet the individualized care needs of
 255 the patients therein and to meet the requirements for registered
 256 nurse staffing set forth in subsection (1), each health care
 257 facility licensed under this statute shall annually submit to
 258 the Agency for Health Care Administration a documented staffing
 259 plan, together with a written certification that the staffing
 260 plan is sufficient to provide adequate and appropriate delivery
 261 of health care services to patients for the ensuing year. The
 262 staffing plan must:

263 (a) Meet the minimum requirements set forth in subsection
 264 (1);

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

267 (c) Employ and identify an approved acuity system for
 268 addressing fluctuations in actual patient acuity levels and



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269 nursing care requirements requiring increased staffing levels
270 above the minimums set forth in the plan;

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

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

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

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

281 (h) Identify each nurse staff classification referenced
282 therein together with a statement setting forth minimum
283 qualifications for each such classification; and

284 (i) Be developed in consultation with the direct-care
285 nursing staff within each department or unit or, if such staff
286 is represented, with the applicable recognized or certified
287 collective-bargaining representatives of the direct-care nursing
288 staff.

289 (3) MINIMUM SKILL MIX.--The skill mix reflected in a
290 staffing plan must assure that all of the following elements of
291 the nursing process are performed in the planning and delivery
292 of care for each patient: assessment, nursing diagnosis,
293 planning, intervention, evaluation, and patient advocacy.

294 (a) The skill mix may not incorporate or assume that
295 nursing care functions required by licensing law or regulations
296 or accepted standards of practice to be performed by a
297 registered nurse or licensed practical nurse are to be performed
298 by unlicensed assistant personnel.



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299 (b) A nurse may not be assigned, or included in the count
 300 of assigned nursing staff for purposes of compliance with
 301 minimum staffing requirements, in a nursing department or unit
 302 or a clinical area within the health facility unless the nurse
 303 is qualified in the area of practice to which the nurse is
 304 assigned.

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

311 (5) RECORDKEEPING.--The facility shall maintain records
 312 sufficient to allow the agency to determine the daily staffing
 313 ratios and skill mixes that the facility maintained on each
 314 unit.

315 Section 5. Mandatory overtime and excessive duty hours.--

316 (1) PROHIBITION OF MANDATORY OVERTIME.--An employee of a
 317 health care facility may not be required to work overtime as
 318 defined in section 3 of this act. Compelling or attempting to
 319 compel an employee to work overtime is contrary to public policy
 320 and is a violation of this section. The acceptance by any
 321 employee of overtime work is strictly voluntary, and the refusal
 322 of an employee to accept such overtime work is not grounds for
 323 discrimination, dismissal, discharge, or any other penalty;
 324 threats of reports for discipline; or employment decisions
 325 adverse to the employee.

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

328 (a) Because of any unforeseeable emergent circumstance;



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329 (b) During prescheduled on-call time if, as of July 1,
330 2003, such prescheduled on-call time was a customary and
331 longstanding practice in the unit or department of the health
332 care facility; or

333 (c) Because of unpredictable and unavoidable occurrences
334 relating to health care delivery which occur at unscheduled
335 intervals and require immediate action, if the employer shows
336 that the employer has exhausted reasonable efforts to obtain
337 staffing. An employer has not used reasonable efforts if
338 overtime work is used to fill vacancies resulting from chronic
339 staff shortages.

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

342 Section 6. Employee rights.--

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

349 (2) RIGHT TO REPORT VIOLATIONS OF SAFE STAFFING
350 STANDARDS.--A health facility covered by this act shall not
351 penalize, discriminate against, or retaliate in any manner
352 against an employee with respect to compensation, terms, or
353 conditions or privileges of employment if such an employee in
354 good faith, individually or in conjunction with another person
355 or persons:

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



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359 (b) Initiates, cooperates, or otherwise participates in an
360 investigation or proceeding brought by a regulatory agency or
361 private accreditation body concerning matters covered by this
362 act;

363 (c) Informs or discusses with other employees, with
364 representatives of the employees, with patients or patient
365 representatives, or with the public violations or suspected
366 violations of this act; or

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

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

373 Section 7. Implementation and enforcement.--

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

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

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

384 (c) A systematic means for investigating and correcting
385 violations of the act;

386 (d) A graduated system of penalties, including fines,
387 withholding of reimbursement, suspension of admission to



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388 specific units, and other appropriate measures, if violations
389 are not corrected;

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

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

396 Section 8. If any law amended by this act was also amended
397 by a law enacted at the 2003 Regular Session of the Legislature
398 or at the 2003 Special Session A of the Legislature, such laws
399 shall be construed as if they had been enacted at the same
400 session of the Legislature, and full effect shall be given to
401 each if possible.

402 Section 9. This act shall take effect July 1, 2003, or
403 upon becoming law, whichever occurs later.