

By Senator Fasano

11-670A-04

1 A bill to be entitled
2 An act relating to standards for nursing
3 services; creating s. 395.0075, F.S.; providing
4 definitions relating to nursing standards;
5 providing for a chief nursing officer to
6 supervise a hospital's nursing service;
7 providing for qualifications for a chief
8 nursing officer; providing an exemption;
9 specifying responsibilities for a chief nursing
10 officer; requiring a hospital to adopt policies
11 to ensure quality nursing services; directing a
12 hospital to develop and implement a staffing
13 plan for nursing personnel; providing criteria
14 for the staffing plan; providing for procedures
15 to monitor and critique the staffing plan;
16 directing hospitals to develop procedures and
17 policies before imposing mandatory overtime on
18 nursing personnel; directing hospitals to
19 develop procedures to use for drafting the
20 staffing plan; directing a hospital to appoint
21 an advisory staffing committee; providing for
22 committee membership; providing for committee
23 duties; requiring hospitals to conduct an
24 annual evaluation of its nursing staffing plan;
25 requiring nonemployee nursing personnel to
26 adhere to the hospital's policies and
27 procedures; authorizing the Agency for Health
28 Care Administration to adopt rules to provide
29 for administrative penalties; directing the
30 agency to conduct random audits of a specified
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1 number of hospitals for compliance with the
2 act; providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 395.0075, Florida Statutes, is
7 created to read:

8 395.0075 Standards for nursing services.--Hospitals
9 licensed under this chapter shall have an organized nursing
10 service that provides 24-hour nursing services. The nursing
11 service shall have a plan for administrative authority and
12 delineation of responsibilities for patient care in all
13 patient-care units.

14 (1) As used in this section, the term:

15 (a) "Mandatory overtime" means being required to work,
16 other than on-call time, when not scheduled to work and
17 includes work in addition to scheduled hours or days.

18 (b) "Nursing personnel" means registered nurses,
19 licensed practice nurses, and other personnel providing
20 nursing care to a hospital's patients.

21 (c) "Nursing service" means the organized hospital
22 department responsible for delivering nursing services to
23 patients.

24 (d) "Nursing services" means such services or acts as
25 may be rendered, directly or indirectly, to and on behalf of a
26 person by individuals licensed under chapter 464.

27 (2) A hospital's nursing service shall be supervised
28 by the chief nursing officer who must be a registered nurse
29 and possess a master's degree in:

30 (a) Nursing administration or a clinical nursing
31 specialty;

1 (b) Health care administration, public administration,
2 or business administration; or

3 (c) A health-related field obtained through a
4 curriculum that included courses in administration and
5 management.

6 (3) If a person does not have a master's degree as
7 described in subsection (2), the person may serve as chief
8 nursing officer if he or she has filed a written plan with the
9 hospital's chief executive officer demonstrating that the
10 person is actively working toward one of the named degrees.
11 The plan must document the courses taken, or to be taken,
12 which relate to leadership, administration, management,
13 performance-improvement, and theoretical approaches to
14 delivering nursing care.

15 (4) The chief nursing officer of a rural hospital, as
16 defined in s. 395.602, or a hospital certified as a critical
17 access hospital by the Centers for Medicare and Medicaid
18 Services is exempt from subsections (2) and (3).

19 (5) The chief nursing officer shall:

20 (a) Supervise the hospital's delivery of nursing
21 services, including determining the types and numbers of
22 nursing personnel necessary to provide safe quality nursing in
23 the hospital.

24 (b) Report directly to the hospital's chief executive
25 officer or chief operating officer who is responsible for the
26 daily operation of the hospital.

27 (c) Participate with the hospital's governing body,
28 medical staff, and clinical staff to plan, promote, and
29 conduct performance-improvement activities.

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1 (6)(a) Each hospital shall adopt, and the chief
2 nursing officer shall implement, policies and procedures to
3 ensure that patients receive quality nursing services.

4 (b) The policies and procedures shall ensure that:

5 1. Adequate numbers of nursing personnel are available
6 on all patient-care units at all times.

7 2. There are sufficient supervisory and nursing
8 personnel for each department or nursing unit to provide, when
9 needed, the immediate availability of a registered nurse for
10 bedside care of a patient.

11 3. There exists a pool of qualified nursing personnel
12 who may be contacted to provide nursing services in the event
13 of sickness, vacations, vacancies, or other absences of
14 assigned nursing personnel.

15 4. All licensed nursing personnel have valid and
16 current licenses.

17 (7)(a) A hospital shall develop and implement a
18 written, hospital-wide staffing plan for a hospital's nursing
19 service. The staffing plan must ensure quality nursing
20 services and must determine the minimum number of nursing
21 personnel necessary to provide quality nursing services.
22 Implementation of the plan shall be supervised by the chief
23 nursing officer. At a minimum, the staffing plan must
24 consider:

25 1. The number and type of patients for whom care is
26 being provided and the characteristics of patient-care units,
27 such as the number of admissions, discharges, and transfers
28 for each patient-care unit;

29 2. The medical characteristics of patients, the
30 intensity of patient care being provided, and the variability
31 of patient care across patient-care units;

- 1 3. The scope of services provided;
2 4. The context within which care is provided,
3 including the architecture and geography of the environment
4 and the availability of technology; and
5 5. Nursing personnel characteristics, including
6 tenure, educational preparation, and experience of the staff
7 and the number and competencies of clinical and support staff
8 the nurse must collaborate with or supervise.
9 (b) The staffing plan shall:
10 1. Be consistent with standards established by the
11 nursing profession and must be drafted using codes of ethics
12 developed by national nursing organizations;
13 2. Use outcomes and nursing-sensitive indicators as an
14 integral role in setting and evaluating the adequacy of the
15 staffing plan. At least one of each of the following three
16 types of outcomes shall be correlated to the adequacy of
17 staffing:
18 a. Patient falls, adverse drug events, injuries to
19 patients, skin breakdown, pneumonia, infection rates, upper
20 gastrointestinal bleeding, shock, cardiac arrest, length of
21 stay, or patient readmissions;
22 b. Operational outcomes, such as work-related injury
23 or illness, vacancy and turnover rates, nursing care hours per
24 patient day, on-call use, or overtime rates; and
25 c. Validated patient complaints related to staffing.
26 3. Include procedures to timely and effectively
27 identify concerns or problems with the adequacy of the
28 staffing plan raised by nursing personnel. The procedures to
29 identify and address concerns or problems must include:
30 a. A prohibition on retaliation against nursing
31 personnel for reporting concerns;

1 b. A requirement that nursing personnel timely report
2 concerns or problems through appropriate hospital levels of
3 authority;

4 c. Orientation of nursing personnel on how to report
5 concerns or problems and to whom; and

6 d. Opportunities for nursing personnel to inform the
7 advisory staffing committee on how the identified concerns or
8 problems are addressed.

9 4. Provide for a comprehensive orientation for all
10 nursing personnel. The completion of orientation and the
11 competency of nursing personnel to perform nursing services
12 must be documented in the person's personnel file according to
13 hospital policy. Staffing assignments must be consistent with
14 the person's documented competency.

15 5. Address mandatory overtime. When used as a means
16 for meeting staffing needs, the hospital's staffing plan must
17 include policies and procedures for imposing mandatory
18 overtime. The mandatory overtime policies and procedures
19 shall:

20 a. Document the reasons used to justify mandatory
21 overtime;

22 b. Describe the action plans to reduce or eliminate
23 mandatory overtime to meet staffing needs;

24 c. Provide a process for monitoring and evaluating the
25 use of mandatory overtime; and

26 d. Describe the methods used to notify nursing
27 personnel of the hospital's mandatory overtime policy.

28 (c) The hospital shall adopt and implement procedures
29 by which the staffing plan for nursing services is developed.
30 The procedures shall include:

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1 1. Establishing presumptive or initial staffing levels
2 that are recalculated at least annually or as necessary;

3 2. Setting staffing levels appropriate to the
4 hospital;

5 3. Adjusting staffing levels for nursing personnel
6 from shift to shift; and

7 4. Reporting to the advisory staffing committee to
8 explain any variance from the staffing plan. The reports are
9 confidential and not subject to disclosure, discovery,
10 subpoena or other means of legal compulsion for their release.

11 (8)(a) A hospital shall appoint an advisory staffing
12 committee to assist in developing the staffing plan. The chief
13 nursing officer shall serve as the chair of the advisory
14 staffing committee. The remainder of the committee shall
15 include:

16 1. At least one-third of the members must be
17 registered nurses who provide direct patient care for at least
18 50 percent of their daily work time;

19 2. At least one registered nurse in the area of
20 infection control, quality assurance, or risk management; and

21 3. To the extent feasible, nurses representing
22 multiple disciplines of nursing practice.

23 (b) The advisory staffing committee must gather
24 information from nursing personnel for developing, monitoring,
25 and evaluating the hospital's staffing plan.

26 (c) Records relating to evaluating outcomes and
27 indicators are confidential and not subject to disclosure,
28 discovery, subpoena, or other means of legal compulsion for
29 their release.

30 (9) Each hospital shall conduct an evaluation of its
31 staffing plan at least once a year. The evaluation must

1 include an assessment of the outcomes and nursing-sensitive
2 indicators as provided in paragraph (7)(b). An evaluation
3 report must be written and documented in the minutes of the
4 advisory staffing committee. Hospitals may choose to evaluate
5 the nursing service by patient-care unit or on a
6 facility-level basis.

7 (10) Nonemployee nursing personnel who are working in
8 the hospital shall adhere to the policies and procedures of
9 the hospital. The chief nursing officer shall orient,
10 supervise, and evaluate the clinical activities of nonemployee
11 nursing personnel which occur within the responsibility of the
12 nursing service.

13 (11) Nursing personnel working in a hospital may not
14 place a patient at risk of harm by leaving a patient care
15 assignment during an agreed upon shift or an agreed upon
16 extended shift without first receiving authorization from the
17 appropriate supervisory personnel.

18 (12)(a) The agency may adopt rules to establish a
19 schedule of administrative penalties under s. 395.1065(2), for
20 a violation of this section.

21 (b) The agency shall maintain for public inspection
22 records of any penalties imposed against hospitals under this
23 section.

24 (c) The agency shall conduct an annual random audit
25 during regular or complaint-initiated hospital inspections of
26 not less than 7 percent of all hospitals to verify compliance
27 with the requirements of this section.

28 (d) The agency shall prepare an annual report of the
29 audits conducted under this subsection.

30 Section 2. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Provides that a chief nursing officer supervise a hospital's nursing service. Specifies qualifications for a chief nursing officer. Details responsibilities for a chief nursing officer. Requires a hospital to adopt policies to ensure quality nursing services. Directs a hospital to develop and implement a staffing plan for nursing personnel. Provides procedures to monitor and critique the staffing plan. Directs hospitals to develop procedures and polices before imposing mandatory overtime on nursing personnel. Directs hospitals to develop procedures to use for drafting the staffing plan. Directs a hospital to appoint an advisory staffing committee. Requires a hospital to conduct an annual evaluation of its nursing staffing plan. Authorizes the Agency for Health Care Administration to adopt rules to provide administrative penalties. Directs the agency to conduct random audits of a specified number of hospitals for compliance with the act. (See bill for details.)