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A bill to be entitled

An act relating to nursing services; creating s. 395.0085, F.S.; requiring hospitals to have organized nursing services; providing definitions; requiring the appointment of a chief nursing officer; providing qualifications for chief nursing officers; providing an exception for certain hospitals; providing responsibilities for chief nursing officers; providing quality care standards; requiring the appointment of a staffing committee by each hospital; providing for membership; providing responsibilities of the staffing committee; requiring the development and adoption of plans and procedures concerning nursing staff; providing for required components of the plans; requiring annual evaluation of hospital staffing plans; requiring hospitals to maintain a list of qualified, on-call nursing staff and nursing services; prohibiting nursing personnel from leaving certain patient care assignments; authorizing the Agency for Health Care Administration to establish by rule fines for violations of the act; requiring the Agency for Health Care Administration to maintain for public inspection a record of such fines; requiring the Agency for Health Care Administration to conduct audits; requiring the agency to prepare an annual report; providing an effective date.

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

Section 1. Section 395.0085, Florida Statutes, is created to read:

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30 395.0085 Standards for nursing services.--Hospitals
 31 licensed under this chapter shall have an organized nursing
 32 service that provides 24-hour nursing services. The nursing
 33 service shall have a plan of administrative authority and
 34 delineation of responsibilities for patient care in all patient
 35 care units.

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

37 (a) "Mandatory overtime" means being required to work,
 38 other than on-call time, when not scheduled, including beyond
 39 hours or days scheduled. Neither the length of the shift nor the
 40 number of shifts scheduled to work is a determinative factor in
 41 defining mandatory overtime.

42 (b) "Nursing personnel" means registered nurses, licensed
 43 practical nurses, and other personnel providing nursing care to
 44 a hospital's patients.

45 (c) "Nursing services" means an organized department with
 46 the accountability and authority for practice areas responsible
 47 for the delivery of services provided by nursing personnel to
 48 patients.

49 (2) Nursing services shall be administered by the chief
 50 nursing officer, who shall be a registered nurse and comply with
 51 one of the following:

52 (a) Possess a master's degree in nursing administration or
 53 a clinical nursing specialty.

54 (b) Possess a master's degree in health care
 55 administration, public administration, or business
 56 administration.

57 (c) Possess a master's degree in a health-related field
 58 obtained through a curriculum that included courses in

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59 administration and management.

60 (d) File a written plan with the chief executive officer
61 of the hospital that presents evidence that the chief nursing
62 officer is actively working toward one of the degrees listed in
63 paragraphs (a)-(c). The evidence must also include courses
64 related to leadership, administration, management, performance
65 improvement, and theoretical approaches to delivering nursing
66 care.

67 (3) The chief nursing officer in statutory rural
68 hospitals, as defined in s. 395.602, or in hospitals that have
69 been certified by the Centers for Medicare and Medicaid Services
70 as critical access hospitals in accordance with 42 C.F.R. s.
71 485.606 shall be exempt from the requirements of subsection (2).

72 (4)(a) The chief nursing officer shall be responsible for
73 overseeing a hospital's delivery of nursing services, including
74 determining the types and numbers of nursing personnel and staff
75 necessary to provide safe, quality nursing in the hospital.

76 (b) The chief nursing officer shall report directly to the
77 chief executive officer of the hospital, who is responsible for
78 the daily operation of the hospital.

79 (c) The chief nursing officer shall participate with
80 leadership from the governing body, medical staff, and clinical
81 areas in planning, promoting, and conducting performance
82 improvement activities.

83 (5)(a) Under the supervision of the chief nursing officer,
84 a hospital shall adopt and implement policies and procedures to
85 ensure that each patient receives quality nursing services.

86 (b) Each hospital shall ensure that:

87 1. Adequate numbers of nursing personnel, including

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88 registered nurses, are available on all patient care units at
 89 all times.

90 2. There is sufficient supervisory and nursing personnel
 91 for each department or nursing unit to provide, when needed, the
 92 immediate availability of registered nurses for bedside care of
 93 any patient.

94 3. There exists a pool of qualified, on-call nursing
 95 personnel who may be contacted to provide replacement nursing
 96 services in the event of sickness, vacations, vacancies, and
 97 other absences of nursing personnel.

98 4. All licensed nursing personnel have valid and current
 99 licenses.

100 (c) Under the supervision of the chief nursing officer, a
 101 hospital shall be responsible for the development and
 102 implementation of a written hospital-wide staffing plan for
 103 nursing services designed to ensure quality nursing services.
 104 The staffing plan must establish the minimum number of nursing
 105 personnel necessary to provide quality nursing services. At a
 106 minimum, the following factors shall be considered in the
 107 determination of the staffing plan:

108 1. The number and type of patients for whom care is being
 109 provided and unit characteristics, such as the number of
 110 admissions, discharges, and transfers for each patient care
 111 unit.

112 2. The medical characteristics of patients, the intensity
 113 of patient care being provided, and the variability of patient
 114 care across a nursing unit.

115 3. The scope of services provided.

116 4. The context within which care is provided, including

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117 architecture and geography of the environment and the
118 availability of technology.

119 5. Nursing personnel characteristics, including staff
120 consistency and tenure, educational preparation and experience,
121 and the number and competencies of clinical and nonclinical
122 support staff the nurse must collaborate with or supervise.

123
124 The hospital, under the supervision of the chief nursing
125 officer, shall adopt and implement procedures by which the
126 staffing plan for nursing services is developed. The procedures
127 shall include:

128 1. Establishing presumptive or initial staffing levels
129 that are recalculated as necessary, but no less often than
130 annually.

131 2. Setting staffing levels on a unit-by-unit basis or
132 other basis appropriate to the hospital.

133 3. Adjusting of nursing personnel staffing levels from
134 shift to shift based on factors such as the intensity of patient
135 care.

136 4. Reporting to the committee, as established under
137 subsection (6), the explanation for the variance. The reports
138 shall be confidential and not subject to disclosure, discovery,
139 subpoena, or other means of legal compulsion for their release.

140 (6)(a) The chief nursing officer shall appoint a staffing
141 committee to assist in the development of the staffing plan
142 required by paragraph (5)(c). The committee shall include:

143 1. As at least one-third of its membership, members who
144 are registered nurses who provide direct patient care at least
145 50 percent of their work time.

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146 2. At least one registered nurse from either infection
 147 control, quality assurance, or risk management.

148 3. To the extent feasible, nurses representing multiple
 149 disciplines of nursing practice.

150 (b) The committee shall receive and review input from
 151 nursing personnel on the development, the on-going monitoring,
 152 and the evaluation of the staffing plan.

153 (c) The reports, records, and review materials received or
 154 developed pursuant to paragraph (b) are confidential and not
 155 subject to disclosure, discovery, subpoena, or other means of
 156 legal compulsion for their release.

157 (7) The staffing plan required by paragraph (5)(c) shall:

158 (a) Be consistent with standards established by the
 159 nursing profession and be developed based upon a review of the
 160 codes of ethics developed by the nursing profession through
 161 national nursing organizations.

162 (b) Utilize outcomes and nursing-sensitive indicators as
 163 an integral role in setting and evaluating the adequacy of the
 164 staffing plan. At least one from each of the following three
 165 types of outcomes shall be correlated to the adequacy of
 166 staffing:

167 1. Patient falls, adverse drug events, injuries to
 168 patients, skin breakdown, pneumonia, infection rates, upper
 169 gastrointestinal bleeding, shock, cardiac arrest, length of
 170 stay, and patient readmissions.

171 2. Operational outcomes, such as work-related injury or
 172 illness, vacancy and turnover rates, nursing care hours per
 173 patient day, on-call use, and overtime rates.

174 3. Validated patient complaints related to staffing.

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175 (c) Incorporate a process that facilitates the timely and
 176 effective identification of concerns about the adequacy of the
 177 staffing plan by the staffing committee established under
 178 subsection (6). This process must include:

179 1. A prohibition of retaliation for reporting concerns.
 180 2. A requirement that nursing personnel report concerns
 181 timely through appropriate channels within the hospital.
 182 3. Orientation of nursing personnel relating to the
 183 reporting of concerns and to whom such reports should be made.
 184 4. Opportunities for nursing personnel to provide feedback
 185 during the staffing committee meetings as to how concerns are
 186 addressed by the staffing committee established under subsection
 187 (6).

188 5. Policies and procedures that require:

189 a. Orientation of nursing personnel to all units to which
 190 they are assigned on either a temporary or permanent basis.
 191 b. Documentation in accordance with hospital policy of the
 192 orientation of nursing personnel and of their competency to
 193 perform nursing services.
 194 c. Nursing assignments to be congruent with documented
 195 competency.
 196 d. Mandatory overtime. When utilized as a means for
 197 meeting staffing needs, policy and procedures for mandatory
 198 overtime must be included. Policy and procedures for mandatory
 199 overtime shall include:

200 (I) Documentation of the basis and justification for
 201 mandatory overtime.
 202 (II) An action plan for the reduction or elimination of
 203 the use of mandatory overtime to meet staffing needs.

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204 (III) A process for monitoring and evaluating the use of
 205 mandatory overtime.

206 (IV) Procedures for notifying nurses and other nursing
 207 care personnel of mandatory overtime policy.

208 (8) Each hospital shall conduct an evaluation of its nurse
 209 staffing plan at least once each year. The evaluation must be in
 210 writing and must include an assessment of the outcomes and
 211 nursing-sensitive indicators as set forth in paragraph (7)(b).
 212 The evaluation shall be documented in minutes of the staffing
 213 committee established under subsection (6). Hospitals may
 214 determine whether this evaluation is done on a unit-level or a
 215 facility-level basis.

216 (9) Nonemployee licensed nurses who are working in the
 217 hospital shall adhere to the policies and procedures of the
 218 hospital. The chief nursing officer is responsible for the
 219 adequate orientation, supervision, and evaluation of the
 220 clinical activities of nonemployee nursing personnel which occur
 221 within the responsibility of the nursing services.

222 (10) Nursing personnel at a hospital may not place a
 223 patient at risk of harm by leaving a patient care assignment
 224 during an agreed-upon shift or an agreed-upon extended shift
 225 without authorization from the appropriate supervisory
 226 personnel.

227 (11)(a) The agency may adopt rules to establish
 228 administrative penalties, including a schedule of such
 229 penalties, pursuant to s. 395.1055 for a violation of this
 230 section.

231 (b) The agency shall maintain for public inspection
 232 records of any penalties imposed on hospitals under this

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233 section.

234 (c) The agency shall conduct an annual random audit during
235 regular or complaint-initiated hospital inspections of not less
236 that 7 percent of all hospitals in this state, excluding
237 hospitals awarded Magnet Status by the American Nurses
238 Credentialing Center, to verify compliance with the requirements
239 of this section.

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

242 Section 2. This act shall take effect upon becoming a law.