

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1256

INTRODUCER: Senator Hill

SUBJECT: Staffing of Health Care Facilities

DATE: March 28, 2009 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Stovall | Wilson | HR | Pre-meeting |
| 2. | | | GO | |
| 3. | | | HA | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill establishes mandatory staffing information disclosures for acute care hospitals. Specifically, it requires acute care hospitals to disclose to persons, within 48 hours after a request, the following information:

- A report of the daily staffing level of the direct care nursing staff, registered nurses, licensed practical nurses, and certified nursing assistants in each patient care unit for each shift and each day of the month preceding the request;
- The daily census by patient care unit for each shift and each day of the month preceding the request; and
- The projected schedule and anticipated average daily census by patient care unit of the hospital for a minimum period of 30 days following the date of the request.

This bill amends the following section of the Florida Statutes: 395.301.

II. Present Situation:

Hospitals are licensed and regulated by the Agency for Health Care Administration (Agency) under ch. 395, F.S., the general licensure provisions of part II, ch. 408, F.S., and administrative rules in Chapter 59A-3, Florida Administrative Code.

A hospital offers more intensive services than those required for room, board, personal services, and general nursing care. A range of health care services is offered with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care. Hospitals must make regularly

available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.¹

A general hospital regularly makes its facilities and services available to the general population.² A specialty hospital makes available either:

- A range of medical services offered by general hospitals, but restricted to a defined age or gender group of the population,
- A restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical or psychiatric illnesses or disorders, or
- Intensive residential treatment programs for children and adolescents under the age of 18 who have psychiatric disorders to restore these patients to an optimal level of functioning.³

Nurse Staffing and Quality of Patient Care

Hospitals with low nurse staffing levels tend to have higher rates of poor patient outcomes such as pneumonia, shock, cardiac arrest, and urinary tract infections, according to research funded by the Agency for Healthcare Research and Quality and others. Major factors contributing to lower staffing levels include the needs of today's higher acuity patients for more care and a nationwide gap between the number of available positions and the number of registered nurses qualified and willing to fill them. A 2004 report published by the Agency for Healthcare Research and Quality indicated that the average registered nurse vacancy rate was 13 percent.⁴

A follow-up study, published in March 2007, found that increased nurse staffing in hospitals was associated with lower hospital-related mortality, failure to rescue, and other patient outcomes, but the association is not necessarily causal. The effect size varied with the nurse staffing measure, the reduction in relative risk was greater and more consistent across the studies, corresponding to an increased registered nurse to patient ratio but not hours and skill mix. The report further concluded that estimates of the size of the nursing effect must be tempered by provider characteristics including hospital commitment to high quality care not considered in most of the studies. Greater nurse staffing was associated with better outcomes in intensive care units and in surgical patients.⁵

Florida Nursing Shortage

In 2001, the Florida Legislature established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. On December 15, 2007, the Florida Center for Nursing issued a

¹ s. 395.002(12), F.S.

² s. 395.002(10), F.S.

³ s. 395.002(28), F.S.

⁴ Hospital Nurse Staffing and Quality of Care by Mark W. Stanton, M.S., published by the Agency for Healthcare Research and Quality, March 2004, found at: <<http://www.ahrq.gov/research/nursestaffing/nursestaff.pdf>> (Last visited on March 28, 2009).

⁵ Nurse Staffing and Quality of Patient Care, March 2007, prepared by Minnesota Evidence-based Practice Center, Minneapolis, Minnesota for the Agency for Healthcare Research and Quality. The abstract may be found at: <<http://www.ahrq.gov/clinic/tp/nursesttp.htm>> and the full report may be found at: <<http://www.ahrq.gov/downloads/pub/evidence/pdf/nursestaff/nursestaff.pdf>> (Last visited on March 28, 2009).

report: *Addressing the Nursing Shortage in Florida: Strategies for Success*.⁶ This report noted that by 2020, Florida will be faced with a convergence of an aging nurse population, resulting in decreased supply—and an aging general population, resulting in increased demand. Combined with the unresolved existing shortage, the result will be a critical deficiency of qualified, experienced nurses.

Staffing Requirements

Section 395.1055(1), F.S., requires the Agency to adopt rules for reasonable and fair minimum standards to ensure that health care facilities licensed under ch. 395, F.S., have sufficient numbers and qualified types of personnel and occupational disciplines on duty and available at all times to provide necessary and adequate patient care and safety.

Agency Staffing Rules for Hospitals

The rule⁷ that the Agency adopted requires that a sufficient number of qualified registered nurses must be on duty at all times to give patients the nursing care that requires the judgment and specialized skills of a registered nurse. There must be a sufficient number of registered nurses to ensure immediate availability of a registered nurse for bedside care of any patient when needed to assure prompt recognition of an untoward change in a patient's condition and to facilitate appropriate intervention by nursing, medical, or other hospital staff members.

The rules require that each hospital employ a registered nurse on a full time basis who has the authority and responsibility for managing nursing services and taking all reasonable steps to assure that a uniformly optimal level of nursing care is provided throughout the hospital. In addition, the rules require that each Class I⁸ and Class II⁹ hospital have at least one licensed registered nurse on duty at all times on each floor or similarly-titled part of the hospital for rendering patient care services. Rules for neonatal intensive care services require hospitals to have a nurse to neonate ratio of at least 1:4 in Level II and 1:2 in Level III neonatal intensive care units at all times.¹⁰ No other specific staffing ratios are required in hospitals.

Accreditation Staffing Standards for Hospitals

Section 395.0161(2), F.S., requires the Agency to accept, in lieu of its own periodic inspections for licensure, the survey or inspection of an accrediting organization, provided the accreditation of the licensed facility is not provisional, and provided the licensed facility authorizes release of, and the Agency receives the report of, the accrediting organization. Accrediting organizations establish standards for accreditation, including standards related to staffing, although there are no staffing ratios. According to the Agency, the Joint Commission, which is one of the recognized accrediting organizations for hospitals, might assess the adequacy of nurse staffing based on other indicia, such as whether required activities are being performed related to patient care.

⁶ See <http://www.flcenterfornursing.org/files/FCN_Strategies_for_Success_Dec_2007.pdf> (Last visited March 28, 2009).

⁷ Rule 59A-3.2085(5)(f), F.A.C.

⁸ Class I hospitals include general acute care hospitals, long term care hospitals, and rural hospitals per Rule 59A-3.252, F.A.C.

⁹ Class II hospitals include specialty hospitals for children, and specialty hospitals for women per Rule 59A-3.252, F.A.C.

¹⁰ Rule 59C-1.042, F.A.C.

Dissemination of Health Care Information

The Agency is required to publish and disseminate information to the public which will enhance informed decision-making in the selection of health care providers, facilities, and services.¹¹ The information is published on the FloridaHealthFinder website at: <http://www.floridahealthfinder.gov>.

The Florida Center for Health Information and Policy Analysis (Florida Center) within the Agency is responsible for collecting, compiling, analyzing, and disseminating health-related data and statistics. The State Consumer Health Information and Policy Advisory Council (Council) is established in the Agency to:

- Assist the Florida Center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of:
 - Health-related data,
 - Fraud and abuse data, and
 - Professional and facility licensing data among federal, state, local, and private entities; and
- Recommend improvements for purposes of public health, policy analysis, and transparency of consumer health care information.¹² The Council advises the Agency regarding making available information for consumers to use to compare health care services.

Hospitals report nurse staffing counts per unit annually in hospital financial reports mandated in s. 408.061(4), F.S. However, the Agency does not report this data on its website. The Council has not recommended the publication of nurse staffing data.¹³

III. Effect of Proposed Changes:

This bill amends s. 395.301, F.S., to require acute care hospitals to disclose to persons, within 48 hours after a written request is received, the following information:

- A report of the daily staffing level of the direct care nursing staff, registered nurses, licensed practical nurses, and certified nursing assistants in each patient care unit for each shift and each day of the month preceding the request;
- The daily census by patient care unit for each shift and each day of the month preceding the request; and
- The projected schedule and anticipated average daily census by patient care unit of the hospital for a minimum period of 30 days following the date of the request.

The bill provides an effective date of July 1, 2009.

¹¹ s. 408.063, F.S.

¹² s. 408.05, F.S.

¹³ Agency for Health Care Administration 2008 Bill analysis and Economic Impact Statement for SB 1186 (2008).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

A person anticipating elective procedures in a hospital will have access to information on staffing patterns as a factor to consider in scheduling the procedure.

C. Government Sector Impact:

The Agency will be minimally impacted due to complaints that might be filed if a hospital fails to comply with the staffing disclosure requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
