

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: CS/SB 1604

INTRODUCER: Health Regulation Committee and Senator Aronberg

SUBJECT: Nursing Services

DATE: April 7, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.			HA	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The committee substitute requires each hospital to establish a nurse staffing collaborative council that is responsible for developing and overseeing an annual staffing plan by nursing shifts within each patient care unit. The committee substitute provides factors to be considered in the development of the plan and for the semiannual review of the staffing plan. The staffing plan is to be reviewed annually with nursing personnel in each patient care area and must be shared with the community upon request.

This committee substitute creates section 395.01922 of the Florida Statutes.

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 April 2, 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 April 2, 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 April 2, 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:

The committee substitute provides for Legislative findings regarding the critical role of nurses in patient care, the use of multiple strategies by hospitals to recruit and retain nurses, and the benefit of evidence-based nurse staffing plans to support the legislative intent for nurses and hospital leadership to participate in a joint process regarding decisions about nurse staffing levels in hospitals.

Accordingly, the committee substitute creates s. 395.01922, F.S., to require each hospital licensed under ch. 395, F.S., to establish a nurse staffing collaborative council by September 1, 2009, by creating either a new collaborative council or assigning the functions to an existing council or committee. The number of members on the committee is not prescribed, but the chief nursing executive is to determine the membership which must include nurses currently providing direct patient care. The primary responsibilities of the nurse staffing collaborative council are to develop and oversee an annual nurse staffing plan and semi-annually review the plan.

Factors to be considered in the development of the plan include, but are not limited to:

- Patient census information in the unit by shift, considering discharges, admissions, and transfers;

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).

- Patient acuity level based on the need for nursing care and the nature of the care to be delivered on each shift;
- Staffing skill mix based on the number and percentages of registered nurses, licensed practical nurses, certified nursing assistants, and unlicensed assistive personnel;
- The level of education, training, and experience of the nursing personnel providing care;
- The need for specialized equipment;
- The physical layout and design of the patient care unit, such as the placement of patient rooms, treatment areas, nursing stations, medication preparation areas, and equipment;
- Staffing guidelines adopted or published by national professional nursing associations, specialty nursing organizations, and other health care professional organizations;
- Hospital finances and resources; and
- The level of technology and support.

The semiannual review of the staffing plan must be based on patient needs and evidence-based staffing information, including the nursing-sensitive quality indicators collected by the hospital. Nursing-sensitive quality indicators are indicators that capture care or the outcomes most affected by nursing care.

The chief nurse executive must communicate and collaborate with the council to ensure a safe and appropriate implementation of the staffing plan.

The staffing plan must be reviewed annually with nursing personnel in each patient care area and shared with the community upon request.

The committee substitute provides an effective date of July 1, 2009.

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:

Each hospital must establish a nurse staffing collaborative council to develop and oversee a staffing plan. The effect of implementation of the plan is unknown at this time.

C. Government Sector Impact:

None.

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.)

CS by Health Regulation Committee on April 6, 2009:

The committee substitute:

- Creates a nurse staffing collaborative council rather than a nurse staffing committee;
- Requires the chief nursing executive to determine the council's membership rather than the hospital administration;
- Adds the level of technology and support to the factors to be considered in developing the staffing plan;
- Eliminates the responsibility of the committee to review, assess and respond to staffing concerns presented to the committee; and
- Requires the chief nurse executive to ensure a safe and appropriate implementation of a staffing plan and eliminates the opportunity for the chief executive officer not to adopt the plan.

B. Amendments:

None.