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 1118
INTRODUCER:	Senator Bogdanoff
SUBJECT:	Nursing Services
DATE:	March 21, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Pre-meeting**
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

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

This bill creates section 395.0192 of the Florida Statutes.

II. Present Situation:

Hospitals

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. As of August 2010, there were 297 hospitals in Florida.[1]

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

[1]Florida Hospital Association, *Facts About Florida's Health Care System*, updated August 2010, available at: http://www.fha.org/facts.html (Last visited on March 8, 2011).

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.[2]

A general hospital regularly makes its facilities and services available to the general population.[3]

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.[4]

All licensed hospitals must have at least the following:
- Inpatient beds;
- A governing authority legally responsible for the conduct of the hospital;
- A chief executive officer or another similarly titled official to who the governing authority delegates the full-time authority for the operation of the hospital in accordance with the established policy of the governing authority;
- An organized medical staff to which the governing authority delegates responsibility for maintaining proper standards for medical and other health care;
- A current and complete medical record for each patient admitted to the hospital;
- A policy requiring that all patients be admitted on the authority of and under the care of a member of the organized medical staff;
- Facilities and professional staff available to provide food to patients to meet their nutritional needs;
- A procedure for providing care in emergency cases;
- A method and policy for infection control; and
- An on-going organized program to enhance the quality of patient care and review the appropriateness of utilization of services.[5]

Magnet Hospitals

A "Magnet hospital" is a hospital that has received special recognition by the American Nurses Credentialing Center, which is a subsidiary of the American Nurses Association. In order to receive this type of recognition, stringent standards must be met by a hospital. In Florida, there are 22 hospitals designated as Magnet hospitals.[6] To be eligible for designation as a Magnet hospital, the following standards must be met.[7]

[2] Section 395.002(12), F.S.
[3] Section 395.002(10), F.S.
[4] Section 395.002(28), F.S. *See also* s. 395.002(15), F.S.
[5] Rule 59A-3.252, Classification of Hospitals, F.A.C.
[6] American Nurses Credentialing Center, *Find a Magnet Facility*, available at: http://www.nursecredentialing.org/Magnet/FindaMagnetFacility.aspx (Last visited on March 8, 2011).
[7] The standards are published on the American Nurses Credentialing Center's website, which is available at http://www.nursecredentialing.org/Magnet/ApplicationProcess/EligibilityRequirements/OrgEligibilityRequirements.aspx (Last visited on March 8, 2011).

Nursing Leadership
The applicant organization must include one or more nursing settings with a single governing authority and one individual serving as the Chief Nursing Officer (CNO). The CNO is ultimately responsible for sustaining the standards of nursing practice in all areas in which nurses practice.

The CNO must participate on the applicant organization's highest governing decision-making and strategic planning body. The CNO must also possess a Master's degree, or at a minimum, a master's degree at the time of application. If the master's degree is not in nursing then either the baccalaureate degree or doctoral degree must be in nursing. The requirement must be maintained throughout the application phase, review phase, and designation as a Magnet organization. Appointees as interim CNOs must also comply with this requirement.

Standards for Nurse Administrators
Applicant hospitals must have the *American Nurses Association's Scope and Standards for Nurse Administrators* (2004), which is a manual providing various nursing standards, currently implemented throughout nursing.

Protected Feedback Procedures
Applicant organizations must have policies and procedures that permit and encourage nurses to confidentially express their concerns about their professional practice environment without retribution. Policies and procedures that discourage nurses to express their concerns about their professional practice environment are prohibited.

Regulatory Compliance
Organizations must comply with all federal laws and regulations administered by the Occupational Safety and Health Review Commission, the Equal Employment Opportunity Commission, the U.S. Department of Health and Human Services or other federal agencies that administer healthcare programs, the U.S. Department of Labor, and the National Labor Relations Board as they relate to registered nurses in the workplace. Institutions that have their Magnet designation revoked, or are prevented from continuing the application process due to an adverse decision, are prohibited from reapplying for Magnet designation for a period of 1 year.

Data Collection
Applicants for Magnet designation must collect nurse-sensitive quality indicators at the unit level and benchmark that data against a database at the highest/broadest level possible (i.e., national, state, specialty organization, regional, or system) to support research and quality improvement initiatives. The intent is to collect data that is applicable and value-added for the particular unit and organization. Organizations must contribute their own data (patient and nurse satisfaction, clinical nurse sensitive indicators) to a national database that compares the organization's data against cohort groups at the national level.

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.[8]

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 size of the effect of the nurse staffing ratio per patient varied. 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.[9]

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 report: *Addressing the Nursing Shortage in Florida: Strategies for Success*.[10] 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 rule[11] 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

[8] Mark W. Stanton, M.A., *Hospital Nurse Staffing and Quality of Care*, 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 8, 2011).
[9] Minnesota Evidence-based Practice Center, Minneapolis, Minnesota; *Nurse Staffing and Quality of Patient Care*; March 2007; prepared 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 8, 2011).
[10] Florida Center for Nursing, *Addressing the Nursing Shortage in Florida: Strategies for Success*, available at: http://www.flcenterfornursing.org/files/FCN_Strategies_for_Success_Dec_2007.pdf (Last visited March 8, 2011).
[11] Rule 59A-3.2085(5)(f), F.A.C.

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 rule requires 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 rule requires that each Class I[12] and Class II[13] 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.[14] 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.[15] 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 required staffing ratios for accreditation. The Joint Commission,[16] 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.

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.[17] 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

[12] Class I hospitals include general acute care hospitals, long term care hospitals, and rural hospitals per Rule 59A-3.252, F.A.C.
[13] Class II hospitals include specialty hospitals for children, and specialty hospitals for women per Rule 59A-3.252, F.A.C.
[14] Rule 59A-3.2085(5)(g), F.A.C.
[15] Rule 59C-1.042, F.A.C.
[16] The Joint Commission is an independent, not-for-profit organization that accredits and certifies more than 18,000 health care organizations and programs in the United States. *See* The Joint Commission, *About the Joint Commission*, available at: http://www.jointcommission.org/about_us/about_the_joint_commission_main.aspx (Last visited on March 8, 2011).
[17] Section 408.063, F.S.

- 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.[18] The Council advises the Agency regarding making information available for consumers to use to compare health care services.[19]

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.

III. Effect of Proposed Changes:

The bill 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 bill creates s. 395.0192, F.S., to require each hospital licensed under ch. 395, F.S., to establish a nurse staffing collaborative council by September 1, 2011, by creating either a new collaborative council or assigning the functions of the collaborative council to an existing council or committee. The number of members on the committee is not prescribed, but a majority of the council is required to consist of registered nurses who currently participate in direct patient care. The chief nursing executive is to determine the remaining members of the council.

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 activities such as discharges, admissions, and transfers;
- 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, such as 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 professional health care organizations;
- Hospital finances and resources; and
- The level of technology and support.

[18] Section 408.05(8), F.S.
[19] Section 408.05(3)(k), F.S.

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

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

The bill provides an effective date of July 1, 2011.

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:

It is indeterminate the costs that may be incurred by private hospitals that are required to establish a nurse staffing collaborative council or any additional costs for implementing a staffing plan that might require additional nursing staff. Those hospitals that are magnet hospitals are not likely to incur costs as they have strict standards that require such staffing plans.

C. Government Sector Impact:

It is indeterminate the costs that may be incurred by public hospitals that are required to establish a nurse staffing collaborative council or any additional costs for implementing a staffing plan that might require additional nursing staff. Those hospitals that are magnet

hospitals are not likely to incur costs as they have strict standards that require such staffing plans.

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.