

113TH CONGRESS  
1ST SESSION

# S. 739

To amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 16, 2013

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Nursing  
5 Shortage Reform and Patient Advocacy Act”.

6 **SEC. 2. MINIMUM DIRECT CARE REGISTERED NURSE**  
7 **STAFFING REQUIREMENTS.**

8 (a) **MINIMUM DIRECT CARE REGISTERED NURSE**  
9 **STAFFING REQUIREMENTS.**—The Public Health Service

1 Act (42 U.S.C. 201 et seq.) is amended by adding at the  
 2 end the following new title:

3 **“TITLE XXXIV—MINIMUM DI-**  
 4 **RECT CARE REGISTERED**  
 5 **NURSE STAFFING REQUIRE-**  
 6 **MENTS**

7 **“SEC. 3401. MINIMUM NURSE STAFFING REQUIREMENTS.**

8 “(a) STAFFING PLAN.—

9 “(1) IN GENERAL.—A hospital shall implement  
 10 a staffing plan that—

11 “(A) provides adequate, appropriate, and  
 12 quality delivery of health care services and pro-  
 13 tects patient safety; and

14 “(B) is consistent with the requirements of  
 15 this title.

16 “(2) EFFECTIVE DATES.—

17 “(A) IMPLEMENTATION OF STAFFING  
 18 PLAN.—Subject to subparagraph (B), the re-  
 19 quirements under paragraph (1) shall take ef-  
 20 fect not later than 1 year after the date of en-  
 21 actment of this title.

22 “(B) APPLICATION OF MINIMUM DIRECT  
 23 CARE REGISTERED NURSE-TO-PATIENT RA-  
 24 TIOS.—The requirements under subsection (b)  
 25 shall take effect as soon as practicable, as de-

1           terminated by the Secretary, but not later than 2  
2           years after the date of enactment of this title,  
3           or in the case of a hospital in a rural area (as  
4           defined in section 1886(d)(2)(D) of the Social  
5           Security Act), not later than 4 years after the  
6           date of enactment of this title.

7           “(b) MINIMUM DIRECT CARE REGISTERED NURSE-  
8 TO-PATIENT RATIOS.—

9           “(1) IN GENERAL.—Except as otherwise pro-  
10          vided in this section, a hospital’s staffing plan shall  
11          provide that, at all times during each shift within a  
12          unit of the hospital, a direct care registered nurse  
13          shall be assigned to not more than the following  
14          number of patients in that unit, subject to para-  
15          graph (4):

16                 “(A) One patient in trauma emergency  
17                 units.

18                 “(B) One patient in operating room units,  
19                 provided that a minimum of 1 additional person  
20                 serves as a scrub assistant in such unit.

21                 “(C) Two patients in critical care units, in-  
22                 cluding neonatal intensive care units, emer-  
23                 gency critical care and intensive care units,  
24                 labor and delivery units, coronary care units,

1 acute respiratory care units, postanesthesia  
2 units, and burn units.

3 “(D) Three patients in emergency room  
4 units, stepdown units, pediatrics units, telem-  
5 etry units, antepartum units, and combined  
6 labor, delivery, and postpartum units.

7 “(E) Four patients in medical-surgical  
8 units, intermediate care nursery units, psy-  
9 chiatric units, and other specialty care units.

10 “(F) Five patients in rehabilitation units,  
11 and skilled nursing units.

12 “(G) Six patients in well-baby nursery  
13 units and postpartum (3 couplets) units.

14 “(2) UNITS WITH DIFFERENT NAMES.—The  
15 Secretary may apply minimum direct care registered  
16 nurse-to-patient ratios established in paragraph (1)  
17 to a type of hospital unit not referred to in such  
18 paragraph if such other unit provides a level of care  
19 to patients whose needs are similar to the needs of  
20 patients cared for in any unit referred to in such  
21 paragraph.

22 “(3) RESTRICTIONS.—

23 “(A) PROHIBITION AGAINST AVERAGING.—

24 A hospital shall not average the number of pa-  
25 tients and the total number of direct care reg-

1           istered nurses assigned to patients in a hospital  
2           unit during any 1 shift or over any period of  
3           time for purposes of meeting the requirements  
4           under this subsection.

5           “(B) PROHIBITION AGAINST IMPOSITION  
6           OF MANDATORY OVERTIME REQUIREMENTS.—A  
7           hospital shall not impose mandatory overtime  
8           requirements to meet the hospital unit direct  
9           care registered nurse-to-patient ratios required  
10          under this subsection.

11          “(C) RELIEF DURING ROUTINE AB-  
12          SENCES.—A hospital shall ensure that only a  
13          direct care registered nurse may relieve another  
14          direct care registered nurse during breaks,  
15          meals, and other routine, expected absences  
16          from a hospital unit.

17          “(4) ADJUSTMENT OF RATIOS.—

18                 “(A) IN GENERAL.—If necessary to protect  
19                 patient safety, the Secretary may prescribe reg-  
20                 ulations that—

21                         “(i) increase minimum direct care reg-  
22                         istered nurse-to-patient ratios under this  
23                         subsection to further limit the number of  
24                         patients that may be assigned to each di-  
25                         rect care nurse; or

1                   “(ii) add minimum direct care reg-  
2                   istered nurse-to-patient ratios for units not  
3                   referred to in paragraphs (1) and (2).

4                   “(B) CONSULTATION.—Such regulations  
5                   shall be prescribed after consultation with af-  
6                   fected hospitals and registered nurses.

7                   “(5) NO PREEMPTION OF CERTAIN STATE-IM-  
8                   POSED RATIOS.—Nothing in this title shall preempt  
9                   State standards that the Secretary determines to be  
10                  at least equivalent to Federal requirements for a  
11                  staffing plan established under this title. Minimum  
12                  direct care registered nurse-to-patient ratios estab-  
13                  lished under this subsection shall not preempt State  
14                  requirements that the Secretary determines are at  
15                  least equivalent to Federal requirements for a staff-  
16                  ing plan established under this title.

17                  “(6) EXEMPTION IN EMERGENCIES.—

18                  “(A) IN GENERAL.—The requirements es-  
19                  tablished under this subsection shall not apply  
20                  during a state of emergency if a hospital is re-  
21                  quested or expected to provide an exceptional  
22                  level of emergency or other medical services.

23                  “(B) GUIDANCE.—The Secretary shall  
24                  issue guidance to hospitals that describes situa-  
25                  tions that constitute a state of emergency for

1 purposes of the exemption under this para-  
2 graph.

3 “(c) DEVELOPMENT AND REEVALUATION OF STAFF-  
4 ING PLAN.—

5 “(1) CONSIDERATIONS IN DEVELOPMENT OF  
6 PLAN.—In developing the staffing plan, a hospital  
7 shall provide for direct care registered nurse-to-pa-  
8 tient ratios above the minimum direct care reg-  
9 istered nurse-to-patient ratios required under sub-  
10 section (b) if appropriate based upon consideration  
11 of the following factors:

12 “(A) The number of patients and acuity  
13 level of patients as determined by the applica-  
14 tion of an acuity system (as defined in section  
15 3407(1)), on a shift-by-shift basis.

16 “(B) The anticipated admissions, dis-  
17 charges, and transfers of patients during each  
18 shift that impacts direct patient care.

19 “(C) Specialized experience required of di-  
20 rect care registered nurses on a particular unit.

21 “(D) Staffing levels and services provided  
22 by licensed vocational or practical nurses, li-  
23 censed psychiatric technicians, certified nurse  
24 assistants, or other ancillary staff in meeting

1 direct patient care needs not required by a di-  
2 rect care registered nurse.

3 “(E) The level and quality of technology  
4 available that affects the delivery of direct pa-  
5 tient care.

6 “(F) The level of familiarity with hospital  
7 practices, policies, and procedures by temporary  
8 agency direct care registered nurses used dur-  
9 ing a shift.

10 “(G) Obstacles to efficiency in the delivery  
11 of patient care presented by physical layout.

12 “(2) DOCUMENTATION OF STAFFING.—A hos-  
13 pital shall specify the system used to document ac-  
14 tual staffing in each unit for each shift.

15 “(3) ANNUAL REEVALUATION OF PLAN AND  
16 ACUITY SYSTEM.—

17 “(A) IN GENERAL.—A hospital shall annu-  
18 ally evaluate—

19 “(i) its staffing plan in each unit in  
20 relation to actual patient care require-  
21 ments; and

22 “(ii) the accuracy of its acuity system.

23 “(B) UPDATE.—A hospital shall update its  
24 staffing plan and acuity system to the extent  
25 appropriate based on such evaluation.



1           “(4) TRANSPARENCY.—

2                   “(A) IN GENERAL.—Any acuity-based pa-  
3           tient classification system adopted by a hospital  
4           under this section shall be transparent in all re-  
5           spects, including disclosure of detailed docu-  
6           mentation of the methodology used to predict  
7           nursing staffing, identifying each factor, as-  
8           sumption, and value used in applying such  
9           methodology.

10                   “(B) PUBLIC AVAILABILITY.—The Sec-  
11           retary shall establish procedures to provide that  
12           the documentation submitted under subsection  
13           (e) is available for public inspection in its en-  
14           tirety.

15                   “(5) REGISTERED NURSE PARTICIPATION.—A  
16           staffing plan of a hospital shall be developed and  
17           subsequent reevaluations shall be conducted under  
18           this subsection on the basis of input from direct care  
19           registered nurses at the hospital or, where such  
20           nurses are represented through collective bargaining,  
21           from the applicable recognized or certified collective  
22           bargaining representative of such nurses. Nothing in  
23           this title shall be construed to permit conduct pro-  
24           hibited under the National Labor Relations Act or  
25           under the Federal Labor Relations Act.

1 “(d) ACUITY TOOL.—

2 “(1) IN GENERAL.—Not later than 2 years  
3 after the date of enactment of the National Nursing  
4 Shortage Reform and Patient Advocacy Act, the  
5 Secretary shall develop a national acuity tool that  
6 provides a transparent method for establishing nurse  
7 staffing requirements above the hospital unit direct  
8 care registered nurse-to-patient ratios required  
9 under subsection (b).

10 “(2) IMPLEMENTATION.—Each hospital may  
11 adopt and implement the national acuity tool de-  
12 scribed in paragraph (1), and provide staffing based  
13 on such tool. Any additional direct care registered  
14 nursing staffing above the hospital unit direct care  
15 registered nurse-to-patient ratios described in sub-  
16 section (b) shall be assigned in a manner determined  
17 by such national acuity tool.

18 “(e) SUBMISSION OF PLAN TO SECRETARY.—A hos-  
19 pital shall submit to the Secretary its staffing plan re-  
20 quired under subsection (a)(1) and any annual updates  
21 under subsection (c)(3)(B).

22 **“SEC. 3402. POSTING, RECORDS, AND AUDITS.**

23 “(a) POSTING REQUIREMENTS.—In each unit, a hos-  
24 pital shall post a uniform notice in a form specified by  
25 the Secretary in regulation that—

1           “(1) explains requirements imposed under sec-  
2           tion 3401;

3           “(2) includes actual direct care registered  
4           nurse-to-patient ratios during each shift; and

5           “(3) is visible, conspicuous, and accessible to  
6           staff, patients, and the public.

7           “(b) RECORDS.—

8           “(1) MAINTENANCE OF RECORDS.—Each hos-  
9           pital shall maintain accurate records of actual direct  
10          care registered nurse-to-patient ratios in each unit  
11          for each shift for no less than 2 years. Such records  
12          shall include—

13                 “(A) the number of patients in each unit;

14                 “(B) the identity and duty hours of each  
15                 direct care registered nurse assigned to each  
16                 patient in each unit in each shift; and

17                 “(C) a copy of each notice posted under  
18                 subsection (a).

19           “(2) AVAILABILITY OF RECORDS.—Each hos-  
20          pital shall make its records maintained under para-  
21          graph (1) available to—

22                 “(A) the Secretary;

23                 “(B) registered nurses and their collective  
24                 bargaining representatives (if any); and

1           “(C) the public under regulations estab-  
2           lished by the Secretary, or in the case of a fed-  
3           erally operated hospital, under section 552 of  
4           title 5, United States Code (commonly known  
5           as the ‘Freedom of Information Act’).

6           “(c) AUDITS.—The Secretary shall conduct periodic  
7 audits to ensure—

8           “(1) implementation of the staffing plan in ac-  
9 cordance with this title; and

10          “(2) accuracy in records maintained under this  
11 section.

12 **“SEC. 3403. MINIMUM DIRECT CARE LICENSED PRACTICAL**  
13 **NURSE STAFFING REQUIREMENTS.**

14          “(a) ESTABLISHMENT.—A hospital’s staffing plan  
15 shall comply with minimum direct care licensed practical  
16 nurse staffing requirements that the Secretary establishes  
17 for units in hospitals. Such staffing requirements shall be  
18 established not later than 18 months after the date of en-  
19 actment of this title, and shall be based on the study con-  
20 ducted under subsection (b).

21          “(b) STUDY.—Not later than 1 year after the date  
22 of enactment of this title, the Secretary, acting through  
23 the Director of the Agency for Healthcare Research and  
24 Quality, shall complete a study of licensed practical nurse  
25 staffing and its effects on patient care in hospitals. The

1 Director may contract with a qualified entity or organiza-  
2 tion to carry out such study under this paragraph. The  
3 Director shall consult with licensed practical nurses and  
4 organizations representing licensed practical nurses re-  
5 garding the design and conduct of the study.

6 “(c) APPLICATION OF REGISTERED NURSE PROVI-  
7 SIONS TO LICENSED PRACTICAL NURSE STAFFING RE-  
8 QUIREMENTS.—Paragraphs (2), (4), (5)(A), and (6) of  
9 section 3401(b), section 3401(c), and section 3402 shall  
10 apply to the establishment and application of direct care  
11 licensed practical nurse staffing requirements under this  
12 section in the same manner that they apply to the estab-  
13 lishment and application of direct care registered nurse-  
14 to-patient ratios under sections 3401 and 3402.

15 “(d) EFFECTIVE DATE.—The requirements of this  
16 section shall take effect as soon as practicable, as deter-  
17 mined by the Secretary, but not later than 2 years after  
18 the date of enactment of this title, or in the case of a  
19 hospital in a rural area (as defined in section  
20 1886(d)(2)(D) of the Social Security Act), not later than  
21 4 years after the date of enactment of this title.

22 **“SEC. 3404. ADJUSTMENT IN REIMBURSEMENT.**

23 “(a) MEDICARE REIMBURSEMENT.—The Secretary  
24 shall adjust payments made to hospitals under title XVIII  
25 of the Social Security Act in an amount equal to the net

1 amount of additional costs incurred in providing services  
2 to Medicare beneficiaries that are attributable to compli-  
3 ance with requirements imposed under sections 3401  
4 through 3403. The amount of such payment adjustments  
5 shall take into account recommendations contained in the  
6 report submitted by the Medicare Payment Advisory Com-  
7 mission under subsection (b).

8       “(b) MEDPAC REPORT.—Not later than 2 years  
9 after the date of the enactment of this title, the Medicare  
10 Payment Advisory Commission (established under section  
11 1805 of the Social Security Act) shall submit to Congress  
12 and the Secretary a report estimating total costs and sav-  
13 ings attributable to compliance with requirements imposed  
14 under sections 3401 through 3403. Such report shall in-  
15 clude recommendations on the need, if any, to adjust reim-  
16 bursement for Medicare payments under subsection (a).

17 **“SEC. 3405. WHISTLEBLOWER AND PATIENT PROTECTIONS.**

18       “(a) RECOGNITION OF DUTY AND RIGHT OF NURSES  
19 TO ADVOCATE IN THE EXCLUSIVE INTEREST OF THE PA-  
20 TIENT.—A nurse shall have the right to act as the pa-  
21 tient’s advocate, as circumstances require, by—

22               “(1) initiating action to improve health care or  
23               to change decisions or activities, including the rec-  
24               ommendations of health information technology  
25               tools, which, in the professional judgment of the

1 nurse, are against the interests and wishes of the  
2 patient; and

3 “(2) giving the patient an opportunity to make  
4 informed decisions about health care before it is pro-  
5 vided.

6 “(b) REFUSAL OF ASSIGNMENT.—A nurse may  
7 refuse to accept an assignment as a nurse in a hospital  
8 if—

9 “(1) the assignment would violate section 3401  
10 or 3403; or

11 “(2) the nurse is not prepared by education,  
12 training, or experience to fulfill the assignment with-  
13 out compromising the safety of any patient or jeop-  
14 ardizing the license of the nurse.

15 “(c) RETALIATION FOR REFUSAL OF ASSIGNMENT  
16 BARRED.—

17 “(1) NO DISCHARGE, DISCRIMINATION, OR RE-  
18 TALIAATION.—No hospital shall discharge, discrimi-  
19 nate, or retaliate in any manner with respect to any  
20 aspect of employment (as defined in section  
21 3407(5)), including discharge, promotion, compensa-  
22 tion, or terms, conditions, or privileges of employ-  
23 ment against a nurse based on the nurse’s refusal of  
24 a work assignment under subsection (b).

1           “(2) NO FILING OF COMPLAINT.—No hospital  
2           shall file a complaint or a report against a nurse  
3           with the appropriate State professional disciplinary  
4           agency because of the nurse’s refusal of a work as-  
5           signment described in subsection (b).

6           “(d) CAUSE OF ACTION.—Any nurse who has been  
7           discharged, discriminated against, or retaliated against in  
8           violation of subsection (c)(1) or against whom a complaint  
9           has been filed in violation of subsection (c)(2) may bring  
10          a cause of action in a United States district court. A nurse  
11          who prevails on the cause of action shall be entitled to  
12          one or more of the following:

13                 “(1) Reinstatement.

14                 “(2) Reimbursement of lost wages, compensa-  
15                 tion, and benefits.

16                 “(3) Attorneys’ fees.

17                 “(4) Court costs.

18                 “(5) Other damages.

19          “(e) COMPLAINT TO SECRETARY.—

20                 “(1) IN GENERAL.—A nurse, patient, or other  
21                 individual may file a complaint with the Secretary  
22                 against a hospital that violates the provisions of this  
23                 title. For any complaint filed, the Secretary shall—

24                         “(A) receive and investigate the complaint;



1           “(B) determine whether a violation of this  
2           title as alleged in the complaint has occurred;  
3           and

4           “(C) if such a violation has occurred, issue  
5           an order that the complaining nurse or indi-  
6           vidual shall not suffer any retaliation described  
7           in subsection (c) or subsection (g).

8           “(f) TOLL-FREE TELEPHONE NUMBER.—

9           “(1) IN GENERAL.—The Secretary shall provide  
10          for the establishment of a toll-free telephone hotline  
11          to provide information regarding the requirements  
12          under section 3401 and to receive reports of viola-  
13          tions of such section.

14          “(2) NOTICE TO PATIENTS.—A hospital shall  
15          provide each patient admitted to the hospital for in-  
16          patient care with the hotline described in paragraph  
17          (1), and shall give notice to each patient that such  
18          hotline may be used to report inadequate staffing or  
19          care.

20          “(g) PROTECTION FOR REPORTING.—

21          “(1) PROHIBITION ON RETALIATION OR DIS-  
22          CRIMINATION.—A hospital shall not discriminate or  
23          retaliate in any manner against any patient, em-  
24          ployee, or contract employee of the hospital, or any  
25          other individual, on the basis that such individual, in

1 good faith, individually or in conjunction with an-  
2 other person or persons, has presented a grievance  
3 or complaint, or has initiated or cooperated in any  
4 investigation or proceeding of any governmental en-  
5 tity, regulatory agency, or private accreditation  
6 body, made a civil claim or demand, or filed an ac-  
7 tion relating to the care, services, or conditions of  
8 the hospital or of any affiliated or related facilities.

9 “(2) GOOD FAITH DEFINED.—For purposes of  
10 this subsection, an individual shall be deemed to be  
11 acting in good faith if the individual reasonably be-  
12 lieves—

13 “(A) the information reported or disclosed  
14 is true; and

15 “(B) a violation of this title has occurred  
16 or may occur.

17 “(h) PROHIBITION ON INTERFERENCE WITH  
18 RIGHTS.—

19 “(1) EXERCISE OF RIGHTS.—It shall be unlaw-  
20 ful for any hospital to—

21 “(A) interfere with, restrain, or deny the  
22 exercise, or attempt to exercise, by any person  
23 of any right provided or protected under this  
24 title; or

1           “(B) coerce or intimidate any person re-  
2           garding the exercise or attempt to exercise such  
3           right.

4           “(2) OPPOSITION TO UNLAWFUL POLICIES OR  
5           PRACTICES.—It shall be unlawful for any hospital to  
6           discriminate or retaliate against any person for op-  
7           posing any hospital policy, practice, or actions which  
8           are alleged to violate, breach, or fail to comply with  
9           any provision of this title.

10          “(3) PROHIBITION ON INTERFERENCE WITH  
11          PROTECTED COMMUNICATIONS.—A hospital (or an  
12          individual representing a hospital) shall not make,  
13          adopt, or enforce any rule, regulation, policy, or  
14          practice which in any manner directly or indirectly  
15          prohibits, impedes, or discourages a direct care reg-  
16          istered nurse from, or intimidates, coerces, or in-  
17          duces a direct care registered nurse regarding, en-  
18          gaging in free speech activities or disclosing informa-  
19          tion as provided under this title.

20          “(4) PROHIBITION ON INTERFERENCE WITH  
21          COLLECTIVE ACTION.—A hospital (or an individual  
22          representing a hospital) shall not in any way inter-  
23          fere with the rights of nurses to organize, bargain  
24          collectively, and engage in concerted activity under

1 section 7 of the National Labor Relations Act (29  
2 U.S.C. 157).

3 “(i) NOTICE.—A hospital shall post in an appropriate  
4 location in each unit a conspicuous notice in a form speci-  
5 fied by the Secretary that—

6 “(1) explains the rights of nurses, patients, and  
7 other individuals under this section;

8 “(2) includes a statement that a nurse, patient,  
9 or other individual may file a complaint with the  
10 Secretary against a hospital that violates the provi-  
11 sions of this title; and

12 “(3) provides instructions on how to file a com-  
13 plaint under paragraph (2).

14 “(j) EFFECTIVE DATES.—

15 “(1) REFUSAL; RETALIATION; CAUSE OF AC-  
16 TION.—

17 “(A) IN GENERAL.—Subsections (b)  
18 through (d) shall apply to refusals occurring on  
19 or after the effective date of the provision to  
20 which the refusal relates.

21 “(B) EXCEPTION.—Subsection (b)(2) shall  
22 not apply to refusals in any hospital before the  
23 requirements of section 3401(a) apply to that  
24 hospital.

1           “(2) PROTECTIONS FOR REPORTING.—Sub-  
2           section (g)(1) shall apply to actions occurring on or  
3           after the effective date of the provision to which the  
4           violation relates, except that such subsection shall  
5           apply to initiation, cooperation, or participation in  
6           an investigation or proceeding on or after the date  
7           of enactment of this title.

8           “(3) NOTICE.—Subsection (i) shall take effect  
9           18 months after the date of enactment of this title.

10 **“SEC. 3406. ENFORCEMENT.**

11           “(a) IN GENERAL.—The Secretary shall enforce the  
12           requirements and prohibitions of this title in accordance  
13           with this section.

14           “(b) PROCEDURES FOR RECEIVING AND INVES-  
15           TIGATING COMPLAINTS.—The Secretary shall establish  
16           procedures under which—

17                   “(1) any person may file a complaint alleging  
18                   that a hospital has violated a requirement or a pro-  
19                   hibition of this title; and

20                   “(2) such complaints shall be investigated by  
21                   the Secretary.

22           “(c) REMEDIES.—If the Secretary determines that a  
23           hospital has violated a requirement of this title, the Sec-  
24           retary—

1           “(1) shall require the facility to establish a cor-  
2           rective action plan to prevent the recurrence of such  
3           violation; and

4           “(2) may impose civil money penalties, as de-  
5           scribed in subsection (d).

6           “(d) CIVIL PENALTIES.—

7           “(1) IN GENERAL.—In addition to any other  
8           penalties prescribed by law, the Secretary may im-  
9           pose civil penalties as follows:

10           “(A) HOSPITAL LIABILITY.—The Secretary  
11           may impose on a hospital found to be in viola-  
12           tion of this title, a civil money penalty of not  
13           more than \$25,000 for each knowing violation  
14           of a requirement of this title, except that the  
15           Secretary shall impose a civil money penalty of  
16           more than \$25,000 for each such violation in  
17           the case of a participating hospital that the  
18           Secretary determines has a pattern or practice  
19           of such violations (with the amount of such ad-  
20           ditional penalties being determined in accord-  
21           ance with a schedule or methodology specified  
22           in regulations).

23           “(B) INDIVIDUAL LIABILITY.—The Sec-  
24           retary may impose on an individual who—

1                   “(i) is employed by a hospital found  
2                   by the Secretary to have violated a require-  
3                   ment of this title; and

4                   “(ii) willfully violates this title,  
5                   a civil money penalty of not more than \$20,000  
6                   for each such violation.

7                   “(2) PROCEDURES.—The provisions of section  
8                   1128A of the Social Security Act (other than sub-  
9                   sections (a) and (b)) shall apply to a civil money  
10                  penalty under this paragraph in the same manner as  
11                  such provisions apply to a penalty or proceeding  
12                  under such section 1128A.

13                  “(e) PUBLIC NOTICE OF VIOLATIONS.—

14                  “(1) INTERNET WEBSITE.—The Secretary shall  
15                  publish on the Internet website of the Department  
16                  of Health and Human Services the names of partici-  
17                  pating hospitals on which civil money penalties have  
18                  been imposed under this subsection, the violation for  
19                  which such penalty was imposed, and such addi-  
20                  tional information as the Secretary determines ap-  
21                  propriate.

22                  “(2) CHANGE OF OWNERSHIP.—With respect to  
23                  a participating hospital that had a change in owner-  
24                  ship, as determined by the Secretary, penalties im-  
25                  posed on the hospital while under previous owner-

1 ship shall no longer be published by the Secretary of  
2 such Internet website after the 1-year period begin-  
3 ning on the date of change in ownership.

4 “(f) OFFSET.—Funds collected by the Secretary  
5 under this section shall be used to offset the costs of en-  
6 forcing this title.

7 **“SEC. 3407. DEFINITIONS.**

8 “For purposes of this title:

9 “(1) ACUITY SYSTEM.—The term ‘acuity sys-  
10 tem’ means an established measurement tool that—

11 “(A) predicts nursing care requirements  
12 for individual patients based on severity of pa-  
13 tient illness, need for specialized equipment and  
14 technology, intensity of nursing interventions  
15 required, and the complexity of clinical nursing  
16 judgment needed to design, implement, and  
17 evaluate the patient’s nursing care plan;

18 “(B) details the amount of nursing care  
19 needed, both in number of nurses and in skill  
20 mix of nursing personnel required, on a daily  
21 basis, for each patient in a nursing department  
22 or unit;

23 “(C) takes into consideration the patient  
24 care services provided not only by registered



1 nurses but also by direct care licensed practical  
2 nurses and other health care personnel; and

3 “(D) is stated in terms that can be readily  
4 used and understood by nurses.

5 “(2) DIRECT CARE LICENSED PRACTICAL  
6 NURSE.—The term ‘direct care licensed practical  
7 nurse’ means an individual who has been granted a  
8 license by at least 1 State to practice as a licensed  
9 practical nurse or a licensed vocational nurse and  
10 who provides bedside care for 1 or more patients.

11 “(3) DIRECT CARE REGISTERED NURSE.—The  
12 term ‘direct care registered nurse’ means an indi-  
13 vidual who has been granted a license by at least 1  
14 State to practice as a registered nurse and who pro-  
15 vides bedside care for 1 or more patients.

16 “(4) EMPLOYMENT.—The term ‘employment’  
17 includes the provision of services under a contract or  
18 other arrangement.

19 “(5) HOSPITAL.—The term ‘hospital’ has the  
20 meaning given that term in section 1861(e) of the  
21 Social Security Act and includes a hospital that is  
22 operated by the Department of Veterans Affairs and  
23 a long-term care hospital (as defined in section  
24 1861(ccc) of such Act).

1           “(6) NURSE.—The term ‘nurse’ means any di-  
2           rect care registered nurse or direct care licensed  
3           practical nurse (as the case may be), regardless of  
4           whether or not the nurse is an employee.

5           “(7) STAFFING PLAN.—The term ‘staffing plan’  
6           means a staffing plan required under section 3401.

7           “(8) STATE OF EMERGENCY.—The term ‘state  
8           of emergency’ means a state of emergency that is an  
9           unpredictable or unavoidable occurrence at an un-  
10          scheduled or unpredictable interval, relating to  
11          health care delivery and requiring immediate medical  
12          interventions and care, but such term does not in-  
13          clude a state of emergency that results from a labor  
14          dispute in the health care industry or consistent  
15          understaffing.

16 **“SEC. 3408. RULE OF CONSTRUCTION.**

17          “Nothing in this title shall be construed to authorize  
18          disclosure of private and confidential patient information,  
19          except in the case where such disclosure is otherwise re-  
20          quired by law, compelled by proper legal process, con-  
21          sented to by the patient, provided in confidence to regu-  
22          latory or accreditation agencies or other government enti-  
23          ties for investigatory purposes, or provided pursuant to  
24          formal or informal complaints of unlawful or improper

1 practices for purposes of achieving corrective and remedial  
2 action.”.

3 (b) RECOMMENDATIONS TO CONGRESS.—Not later  
4 than 1 year after the date of enactment of this Act, the  
5 Secretary of Health and Human Services shall submit to  
6 Congress a report containing recommendations for ensur-  
7 ing that sufficient numbers of nurses are available to meet  
8 the requirements imposed by title XXXIV of the Public  
9 Health Service Act, as added by subsection (a).

10 (c) REPORT BY HRSA.—

11 (1) IN GENERAL.—Not later than 2 years after  
12 the date of enactment of this Act, the Administrator  
13 of the Health Resources and Services Administra-  
14 tion, in consultation with the National Health Care  
15 Workforce Commission, shall submit to Congress a  
16 report regarding the relationship between nurse  
17 staffing levels and nurse retention in hospitals.

18 (2) UPDATED REPORT.—Not later than 5 years  
19 after the date of enactment of this Act, the Adminis-  
20 trator of the Health Resources and Services Admin-  
21 istration, in consultation with the National Health  
22 Care Workforce Commission, shall submit to Con-  
23 gress an update of the report submitted under para-  
24 graph (1).

1 **SEC. 3. ENFORCEMENT OF REQUIREMENTS THROUGH FED-**  
2 **ERAL PROGRAMS.**

3 (a) **MEDICARE PROGRAM.**—Section 1866(a)(1) of the  
4 Social Security Act (42 U.S.C. 1395cc(a)(1)) is amend-  
5 ed—

6 (1) by striking “and” at the end of subpara-  
7 graph (V);

8 (2) in subparagraph (W), as added by section  
9 3005(1)(C) of the Patient Protection and Affordable  
10 Care Act (Public Law 111–148)—

11 (A) by moving such subparagraph 2 ems to  
12 the left; and

13 (B) by striking the period at the end and  
14 inserting a comma;

15 (3) by redesignating subparagraph (W), as  
16 added by section 6406(b)(3) of the Patient Protec-  
17 tion and Affordable Care Act (Public Law 111–148),  
18 as subparagraph (X) and moving such subparagraph  
19 2 ems to the left;

20 (4) in subparagraph (X), as redesignated by  
21 paragraph (3), by striking the period at the end and  
22 inserting “, and”; and

23 (5) by inserting after subparagraph (X), as so  
24 redesignated, the following:

1           “(Y) in the case of a hospital, to be subject to  
2           the provisions of title XXXIV of the Public Health  
3           Service Act.”.

4           (b) MEDICAID PROGRAM.—Section 1902(a) of the  
5           Social Security Act (42 U.S.C. 1396a(a)) is amended—

6           (1) in paragraph (82)(C), by striking “and” at  
7           the end;

8           (2) in paragraph (83), by striking the period at  
9           the end and inserting “; and”; and

10          (3) by inserting after paragraph (83) the fol-  
11          lowing new paragraph:

12           “(84) provide that any hospital receiving pay-  
13           ments under such plan shall be subject to the provi-  
14           sions of title XXXIV of the Public Health Service  
15           Act.”.

16          (c) HEALTH BENEFITS PROGRAM OF THE DEPART-  
17          MENT OF VETERANS AFFAIRS.—Section 8110(a) of title  
18          38, United States Code, is amended by adding at the end  
19          the following:

20           “(7) Subject to appropriations, the Secretary of  
21           Veterans Affairs may require that a Department  
22           medical facility that is a hospital shall comply with  
23           the provisions of title XXXIV of the Public Health  
24           Service Act.

1           “(8) Nothing either in chapter 74 of this title  
2           or in section 7106 of title 5 shall preclude enforce-  
3           ment of the provisions of title XXXIV of the Public  
4           Health Service Act with respect to a Department  
5           hospital through grievance procedures negotiated in  
6           accordance with chapter 71 of title 5.”.

7           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
8           are authorized to be appropriated to the Secretary of Vet-  
9           erans Affairs, for compliance with title XXXIV of the  
10          Public Health Service Act pursuant to section 8110(a)(7)  
11          of title 38, United States Code, such sums as may be nec-  
12          essary for fiscal year 2014 and each subsequent fiscal  
13          year.

14          **SEC. 4. NURSE WORKFORCE INITIATIVE.**

15          (a) SCHOLARSHIP AND STIPEND PROGRAM.—Section  
16          846(d) of the Public Health Service Act (42 U.S.C.  
17          297n(d)) is amended—

18                  (1) in the section heading, by inserting “AND  
19                  STIPEND” after “SCHOLARSHIP”; and

20                  (2) in paragraph (1), by inserting “or stipends”  
21                  after “scholarships”.

22          (b) NURSE RETENTION GRANTS.—Section 831A(b)  
23          of the Public Health Service Act (42 U.S.C. 296p–1(b))  
24          is amended—

1           (1) by striking “GRANTS FOR CAREER LADDER  
2 PROGRAM.—” and inserting “GRANTS FOR NURSE  
3 RETENTION.—”;

4           (2) in paragraph (2), by striking “; or” and in-  
5 serting a semicolon;

6           (3) in paragraph (3), by striking the period and  
7 inserting a semicolon; and

8           (4) by adding at the end the following:

9           “(4) to provide additional support to nurses en-  
10 tering the workforce by implementing nursing pre-  
11 ceptorship projects that establish a period of prac-  
12 tical and clinical experiences and training for nurs-  
13 ing students, newly hired nurses, and recent grad-  
14 uates of a direct care degree programs for registered  
15 nurses; or

16           “(5) to implement mentorship projects that as-  
17 sist new or transitional direct care registered nurses  
18 in adapting to the hospital setting.”.

○