

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 629

Representative Skindell

Cosponsors: Representatives Upchurch, O'Brien, Crossman, Lightbody, Hicks-Hudson

A BILL

To amend sections 3727.50, 3727.51, 3727.52, and 1
3727.53 and to enact sections 3727.80 to 3727.88 2
of the Revised Code regarding staffing ratios 3
and other employment conditions for registered 4
nurses employed by hospitals. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3727.50, 3727.51, 3727.52, and 6
3727.53 be amended and sections 3727.80, 3727.81, 3727.82, 7
3727.83, 3727.84, 3727.85, 3727.86, 3727.87, and 3727.88 of the 8
Revised Code be enacted to read as follows: 9

Sec. 3727.50. As used in this section and sections 3727.51 10
to 3727.57 of the Revised Code: 11

(A) "Direct patient care" means care provided by a nurse 12
with direct responsibility to carry out medical regimens or 13
nursing care for one or more patients. 14

(B) "Direct-care registered nurse" means a registered 15
nurse who provides direct patient care. 16

(C) "Inpatient care unit" means a hospital unit, including 17
an operating room or other inpatient care area, in which nursing 18
care is provided to patients who have been admitted to the 19
hospital. 20

~~(C)~~ (D) "Nurse" means a person who is licensed to practice 21
as a registered nurse under Chapter 4723. of the Revised Code 22
or, if the hospital employs licensed practical nurses, a person 23
who is licensed to practice as a licensed practical nurse under 24
that chapter. 25

Sec. 3727.51. (A) Each hospital shall convene a hospital- 26
wide nursing care committee not later than ninety days after ~~the~~ 27
~~effective date of this section~~ September 12, 2008, or, if the 28
hospital is not treating patients on ~~the effective date of this~~ 29
~~section~~ September 12, 2008, ninety days after the hospital 30
begins to treat patients. The hospital shall select the members 31
of the committee, subject to all of the following: 32

(1) The hospital's chief nursing officer shall be included 33
as a member of the committee. 34

(2) At least fifty per cent of the committee's membership 35
shall consist of direct-care registered nurses ~~who provide~~ 36
~~direct patient care in the hospital.~~ If the direct-care 37
registered nurses are represented under a collective bargaining 38
agreement, the authorized collective bargaining agent shall 39
appoint the committee members who are direct-care registered 40
nurses. 41

(3) The number of registered nurses included as members of 42
the committee shall be sufficient to provide adequate 43
representation of all types of nursing care services provided in 44
the hospital. 45

(B) The committee ~~member who is the hospital's chief-~~ 46
~~nursing officer~~ shall establish a mechanism for obtaining input 47
from nurses in all inpatient care units who provide direct 48
patient care regarding what the nursing services staffing plan 49
recommendations described in division (B) of section 3727.52 of 50
the Revised Code should include. 51

Sec. 3727.52. A hospital-wide nursing care committee 52
convened pursuant to section 3727.51 of the Revised Code shall 53
do both of the following: 54

(A) If one exists, evaluate the hospital's current nursing 55
services staffing plan; 56

(B) Recommend a nursing services staffing plan that ~~is, at-~~ 57
~~a minimum, consistent with current standards established by-~~ 58
~~private accreditation organizations or governmental entities and-~~ 59
addresses all of the following: 60

(1) The selection, implementation, and evaluation of 61
minimum staffing levels for all inpatient care units that ensure 62
that the hospital has a staff of competent nurses with the 63
specialized skills needed to meet patient needs ~~in accordance-~~ 64
~~with evidence-based safe nurse staffing standards;~~ 65

(2) The complexity of complete care, assessment on patient 66
admission, volume of patient admissions, discharges and 67
transfers, evaluation of the progress of a patient's problems, 68
the amount of time needed for patient education, ongoing 69
physical assessments, planning for a patient's discharge, 70
assessment after a change in patient condition, and assessment 71
of the need for patient referrals; 72

(3) Patient acuity and the number of patients for whom 73
care is being provided; 74

(4) The need for ongoing assessments of a unit's patients 75
and its nursing staff levels; 76

(5) The hospital's policy for identifying additional 77
nurses who can provide direct patient care when patients' 78
unexpected needs exceed the planned workload for direct care 79
staff. 80

Sec. 3727.53. (A) In accordance with division (B) of this 81
section, each hospital shall create ~~an evidence based a~~ written 82
nursing services staffing plan guiding the assignment of nurses 83
hospital-wide other than direct-care registered nurses assigned 84
pursuant to sections 3727.81 and 3727.82 of the Revised Code. 85
~~The~~ 86

The staffing plan shall be implemented not later than 87
ninety days after the hospital-wide nursing care committee is 88
convened pursuant to section 3727.51 of the Revised Code, except 89
that if the hospital's next fiscal year starts not later than 90
one hundred eighty days after the date on which the committee 91
convenes, implementation may be delayed until the first day of 92
that fiscal year. 93

(B) The staffing plan created under this section ~~shall, at~~ 94
~~a minimum, reflect current standards established by private~~ 95
~~accreditation organizations or governmental entities. The plan~~ 96
shall be based on multiple nurse and patient considerations that 97
yield minimum staffing levels for inpatient care units that 98
ensure that the hospital has a staff of competent nurses with 99
specialized skills needed to meet patient needs. These 100
considerations shall include both of the following: 101

(1) The recommendations of the hospital-wide nursing care 102
committee made under section 3727.52 of the Revised Code, which 103

shall be given significant consideration; 104

(2) All of the matters listed in divisions (B) (1) to (5) 105
of section 3727.52 of the Revised Code. 106

Sec. 3727.80. As used in sections 3727.80 to 3727.88 of 107
the Revised Code: 108

(A) "Artificial life support" means a technological system 109
used to aid, support, or replace a vital function of the body. 110

(B) "Direct-care registered nurse" has the same meaning as 111
in section 3727.50 of the Revised Code. 112

(C) "Nursing intervention" means a determination by a 113
direct-care registered nurse, before a medical order or 114
treatment plan is implemented, that the order or plan is in the 115
best interest of the patient. 116

(D) "Professional judgment" means application of a direct- 117
care registered nurse's knowledge, skill, expertise, and 118
experience in making decisions about patient care. 119

(E) "Technical support" means specialized equipment; 120
providing for invasive monitoring, telemetry, or mechanical 121
ventilation; or the immediate amelioration or remediation of 122
severe pathology for a patient requiring less care than that 123
provided by an intensive care unit but more than that provided 124
by a medical-surgical unit. 125

Sec. 3727.81. (A) Each hospital shall maintain the 126
following direct-care registered nurse-to-patient ratios: 127

(1) One direct-care registered nurse for each of the 128
following: 129

(a) A patient in an operating room; 130

<u>(b) A patient receiving conscious sedation;</u>	131
<u>(c) A trauma or critical care patient in an emergency department;</u>	132 133
<u>(d) An active labor patient, patient with medical or obstetrical complications, or patient for whom the nurse initiates epidural anesthesia and circulation for cesarean delivery;</u>	134 135 136 137
<u>(e) An unstable newborn or newborn in a resuscitation period;</u>	138 139
<u>(f) Every three of the following: a healthy mother-infant couplet or, if a mother has delivered multiple infants, a healthy mother-infant group that includes not more than three of her infants.</u>	140 141 142 143
<u>(2) (a) One direct-care registered nurse for every two patients in each of the following units who is not a patient listed in division (A) (1) of this section:</u>	144 145 146
<u>(i) An intensive care unit;</u>	147
<u>(ii) A critical care unit for patients whose medical conditions require continuous monitoring, complex nursing interventions, restorative measures, and intensive nursing care through direct observation;</u>	148 149 150 151
<u>(iii) A neonatal intensive care unit;</u>	152
<u>(iv) A burn unit;</u>	153
<u>(v) A postanesthesia recovery unit, regardless of the type of anesthesia patients receive.</u>	154 155
<u>(b) One direct-care registered nurse for every two patients during the immediate postpartum period.</u>	156 157

(3) (a) One direct-care registered nurse for every three patients in each of the following units who is not a patient listed in division (A) (1) or (2) (b) of this section: 158
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(i) A step-down unit for patients whose severity of illness, including all comorbidities, restorative measures, and level of nursing intensity, requires any of the following: intermediate intensive care, monitoring, multiple assessments, specialized nursing interventions, evaluations, education of the patient's family or other representatives, or technical support but not necessarily artificial life support as a result of moderate or potentially severe physiologic instability; 161
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(ii) A pediatric unit; 169

(iii) A telemetry unit designated for electronic monitoring, recording, retrieval, and display of cardiac electrical signals for patients whose severity of illness, including all comorbidities, restorative measures, and level of nursing intensity, requires intermediate intensive care, monitoring, multiple assessments, specialized nursing interventions, evaluation, or education of the patient's family or other representatives. 170
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(b) One direct-care registered nurse for every three antepartum patients who are not in active labor or three mother-and-infant couplets in a postpartum area. 178
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(4) (a) One direct-care registered nurse for every four patients in each of the following units who is not a patient listed in division (A) (1), (2) (b), or (3) (b) of this section: 181
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(i) A medical-surgical unit for patients whose severity of illness requires continuous care through direct observation, including units for patients requiring less than intensive care 184
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<u>or step-down care, receiving twenty-four-hour inpatient general</u>	187
<u>medical care, post-surgical care, or both general medical and</u>	188
<u>post-surgical care, or with diverse diagnoses and diverse age</u>	189
<u>groups, but not units with pediatric patients;</u>	190
<u>(ii) A presurgical, admissions, or ambulatory surgical</u>	191
<u>unit;</u>	192
<u>(iii) A psychiatric unit;</u>	193
<u>(iv) Any other specialty unit.</u>	194
<u>(b) One direct-care registered nurse for every four of the</u>	195
<u>following patients:</u>	196
<u>(i) Patients in an emergency department who are not trauma</u>	197
<u>or critical care patients;</u>	198
<u>(ii) Mothers in an obstetrics unit who are not included in</u>	199
<u>division (A) (1) (f) of this section;</u>	200
<u>(iii) Postpartum or postgynecological surgery patients;</u>	201
<u>(iv) Recently born infants with no unusual medical needs</u>	202
<u>who are not included in division (A) (1) (f) of this section.</u>	203
<u>(5) (a) One direct-care registered nurse for every five</u>	204
<u>patients in each of the following units:</u>	205
<u>(i) A rehabilitation unit that is used to restore an ill</u>	206
<u>or injured patient to the highest level of self-sufficiency or</u>	207
<u>gainful employment of which the patient is capable in the</u>	208
<u>shortest possible time, compatible with the patient's physical,</u>	209
<u>intellectual, emotional, and psychological capabilities, and in</u>	210
<u>accordance with planned goals and objectives;</u>	211
<u>(ii) A skilled nursing unit that is used for the provision</u>	212
<u>of skilled nursing care and supportive care to patients whose</u>	213

primary need is for skilled nursing care on a long-term basis 214
and patients who are admitted after at least a forty-eight-hour 215
period of continuous inpatient care and that provides activities 216
and such services as medical, nursing, dietary, and pharmaceutic 217
services. 218

(b) One direct-care registered nurse for every five 219
infants in a well-baby nursery. 220

(6) The ratios determined in accordance with section 221
3727.82 of the Revised Code for units and circumstances not 222
specified in divisions (A) (1) to (5) of this section. 223

(B) The ratios listed in division (A) of this section are 224
the minimum ratios of direct-care registered nurses to patients 225
that a hospital is required to maintain at all times. 226

(C) Identifying a unit or circumstance other than as 227
described in division (A) of this section does not affect the 228
duty of a hospital to maintain the direct-care registered nurse- 229
to-patient ratios listed in division (A) of this section. 230

Sec. 3727.82. (A) For each hospital unit not listed in 231
section 3727.81 of the Revised Code, the hospital-wide nursing 232
care committee convened under section 3727.51 of the Revised 233
Code shall, using the factors specified in division (B) of this 234
section, determine which unit listed in section 3727.81 of the 235
Revised Code has patient needs most similar to those of the unit 236
that is not listed in that section. The committee shall 237
communicate the results of the determination to the 238
administrators of the hospital. The hospital administrators 239
shall ensure that the appropriate direct-care registered nurse- 240
to-patient ratio is implemented for the unit not later than 241
thirty days after the committee makes the determination. 242

(B) The hospital-wide nursing care committee shall 243
consider all of the following factors when making a 244
determination required by division (A) of this section: 245

(1) The registered nursing care requirements for 246
individual patients based on the severity of patient illness; 247

(2) The intensity of the nursing interventions and 248
complexity of the professional judgment required to design, 249
implement, and evaluate each patient's nursing care plan 250
consistent with professional standards; 251

(3) The ability of each patient to provide self-care, 252
regardless of motor, sensory, and cognitive deficits; 253

(4) The need for patient advocacy; 254

(5) The licensure of the personnel required for care; 255

(6) The patient care delivery system; 256

(7) The hospital's physical layout; 257

(8) The generally accepted standards of nursing practice; 258

(9) The elements that are unique to the hospital's patient 259
population. 260

(C) A hospital shall implement the ratios established 261
under this section not later than thirty days after the hospital 262
administrators are informed of them. 263

Sec. 3727.83. Each hospital shall post daily, on a shift- 264
by-shift basis, in a conspicuous place visible to the public, 265
the required number of direct-care registered nurses for each 266
patient and unit as determined under sections 3727.81 and 267
3727.82 of the Revised Code, the actual number of direct-care 268
registered nurses for each patient and unit for that shift, and 269

any difference between the two. 270

Each hospital shall provide each patient admitted to the 271
hospital for inpatient care the telephone number of the toll- 272
free patient safety telephone line made available to the public 273
by the department of health under section 3701.91 of the Revised 274
Code for reporting inadequate staffing or care in the hospital. 275
The patient may use the telephone number to report inadequate 276
staffing or care at the hospital. 277

Sec. 3727.84. (A) As used in this section, "competency" 278
means the ability of a direct-care registered nurse to act and 279
integrate the knowledge, skills, abilities, and professional 280
judgment in a manner that promotes safe, therapeutic, and 281
effective patient care. 282

(B) No hospital shall knowingly do any of the following 283
regarding the direct-care registered nurse-to-patient ratios 284
required by sections 3727.81 and 3727.82 of the Revised Code: 285

(1) Assign a direct-care registered nurse to a unit unless 286
the hospital and nurse jointly determine that the nurse 287
demonstrates competency in providing care in that unit and the 288
nurse has completed orientation to the unit sufficient to 289
provide safe, therapeutic, and effective care to patients in 290
that unit; 291

(2) Average the number of patients and the number of 292
direct-care registered nurses on a unit during any one shift or 293
over any period of time; 294

(3) Include in the calculation of the direct-care 295
registered nurse-to-patient ratio any of the following: nurse 296
administrators, supervisors, managers, charge nurses, case 297
managers, or triage, radio, or flight nurses; 298

<u>(4) Impose mandatory overtime on any direct-care</u>	299
<u>registered nurse in order to meet the required direct-care</u>	300
<u>registered nurse-to-patient ratio;</u>	301
<u>(5) Impose layoffs of licensed practical nurses or other</u>	302
<u>ancillary or supportive personnel within the hospital as a means</u>	303
<u>of meeting the required ratios;</u>	304
<u>(6) Allow a nurse who is not a direct-care registered</u>	305
<u>nurse to relieve a direct-care registered nurse during a break,</u>	306
<u>meal, or other routine, expected absence from a unit;</u>	307
<u>(7) Use video cameras or monitors or any other form of</u>	308
<u>electronic visualization of a patient as a substitute for the</u>	309
<u>direct observation that is needed for the assessment of a</u>	310
<u>patient by a direct-care registered nurse;</u>	311
<u>(8) Assign a patient to a particular unit within the</u>	312
<u>hospital unless the unit's level of intensity, type of care, and</u>	313
<u>direct-care registered nurse-to-patient ratio meet the patient's</u>	314
<u>needs;</u>	315
<u>(9) Create or use units within the hospital that are</u>	316
<u>adjustable according to patient acuity.</u>	317
<u>(C) Each hospital shall establish criteria for determining</u>	318
<u>competency for purposes of division (B) (1) of this section. The</u>	319
<u>hospital shall include the criteria in the hospital's policies</u>	320
<u>and procedures.</u>	321
<u>Sec. 3727.85. (A) A registered nurse employed by a</u>	322
<u>hospital has the right and duty to act as an advocate for the</u>	323
<u>nurse's patients, as circumstances require, by doing any of the</u>	324
<u>following:</u>	325
<u>(1) Initiating action to improve health care practices in</u>	326

the hospital, including providing professional input on the 327
methods of patient care documentation and the number of 328
ancillary and support staff, such as physical therapists, 329
respiratory therapists, social workers, and patient lifting, 330
transportation, housekeeping, and security personnel, who should 331
be available and present to supplement the work of registered 332
nurses; 333

(2) Advocating and monitoring activities to ensure 334
hospital compliance with implementation of the nursing services 335
staffing plan created under section 3727.53 of the Revised Code 336
and assuring safe registered nurse staffing levels at the unit 337
level; 338

(3) Determining whether a health information technology 339
software program or tool displaces registered nurses from 340
patient care, interferes with the nursing process, or otherwise 341
compromises a registered nurse's professional judgment; 342

(4) Giving patients an opportunity to make informed 343
decisions regarding their health care before the care is 344
provided. 345

(B) A registered nurse employed by a hospital may object 346
to, or refuse to participate in, any activity, policy, practice, 347
assignment, or task if, in good faith, the nurse believes the 348
activity, policy, practice, assignment, or task violates 349
sections 3727.81 to 3727.84 of the Revised Code or division (A) 350
of this section. With respect to an assignment, the nurse may 351
refuse to complete the assignment if the nurse is not prepared 352
by education, training, or experience to complete the assignment 353
without compromising patient safety or jeopardizing the nurse's 354
license to practice by creating the potential for professional 355
disciplinary action by the board of nursing. 356

Sec. 3727.86. (A) A hospital shall not discharge, 357
retaliate against, discriminate against, or otherwise take 358
adverse action against a registered nurse with respect to any 359
aspect of the nurse's employment based on the nurse's refusal to 360
complete an assignment as described in division (B) of section 361
3727.85 of the Revised Code. Actions prohibited under this 362
division include demoting the nurse, decreasing the nurse's 363
compensation, and negatively altering the terms, conditions, or 364
privileges of employment. 365

(B) A hospital shall not file a complaint against a 366
registered nurse with the board of nursing based on the nurse's 367
refusal to complete an assignment as described in division (B) 368
of section 3727.85 of the Revised Code. 369

(C) A hospital shall not discriminate or retaliate against 370
any individual for opposing any hospital policy, practice, or 371
action that is alleged to violate sections 3727.81 to 3727.85 of 372
the Revised Code. 373

(D) A hospital, or an individual representing a hospital, 374
shall not do either of the following: 375

(1) Interfere with, restrain, or deny the exercise of, or 376
attempt to deny the exercise of, a right conferred by sections 377
3727.81 to 3727.85 of the Revised Code; 378

(2) Coerce or intimidate any individual regarding the 379
exercise of, or an attempt to exercise, a right conferred by 380
sections 3727.81 to 3727.85 of the Revised Code. 381

Sec. 3727.87. (A) A hospital that fails to comply with 382
sections 3727.81 to 3727.86 of the Revised Code is subject to a 383
fine imposed by the department of health. For each failure, the 384
department shall impose a fine of not more than twenty-five 385

thousand dollars and an additional fine of not more than ten 386
thousand dollars per nursing unit shift until the offense or 387
violation is corrected. 388

(B) On request of the director of health, the attorney 389
general shall bring and prosecute to judgment a civil action to 390
collect any fine imposed under division (A) of this section that 391
remains unpaid. 392

(C) All fines collected under this section shall be 393
deposited into the state treasury to the credit of the general 394
operations fund created under section 3701.83 of the Revised 395
Code. 396

Sec. 3727.88. (A) A registered nurse has a cause of action 397
against a hospital for violation of section 3727.86 of the 398
Revised Code. The nurse may commence the action by filing a 399
civil action in the court of common pleas of the county in which 400
the hospital is located. 401

(B) A nurse who prevails on a cause of action commenced 402
under this section is entitled to any one or more of the 403
following remedies: 404

(1) Reinstatement to the position the nurse had before the 405
hospital violated section 3727.86 of the Revised Code; 406

(2) Reimbursement of lost wages, compensation, and 407
benefits; 408

(3) Attorneys' fees; 409

(4) Court costs; 410

(5) Any other damages the court considers appropriate. 411

Section 2. That existing sections 3727.50, 3727.51, 412

3727.52, and 3727.53 of the Revised Code are hereby repealed. 413

Section 3. (A) As used in this section, "direct-care 414
registered nurse" has the same meaning as in section 3727.50 of 415
the Revised Code. 416

(B) It is the intent of the General Assembly to recognize 417
all of the following: 418

(1) That each direct-care registered nurse employed by a 419
hospital in this state has the right to do all of the following: 420

(a) Provide safe, therapeutic, effective, and competent 421
nursing care to patients; 422

(b) Have the necessary knowledge, judgment, skills, and 423
ability to provide the required care before accepting a patient 424
assignment; 425

(c) Determine whether the nurse is clinically competent to 426
perform the required care in a particular unit, or with a 427
particular diagnosis, condition, prognosis, or other 428
determinative characteristics of nursing care; 429

(d) Recognize that the nurse is not clinically competent 430
to perform the required care and not accept the patient care 431
assignment; 432

(e) Assess each medical order, and prior to acting on the 433
order, determine whether the order is in the best interest of 434
the patient and was initiated by a person legally authorized to 435
initiate it; 436

(f) Perform continuous and ongoing patient assessments of 437
each patient's condition, including direct observation of the 438
patient's signs and symptoms of illness; reaction to treatment; 439
behavior and physical condition; interpretation of information 440

obtained from the patient and others, including other caregivers 441
on the health team; and data collection and analysis, synthesis, 442
and evaluation of the data; 443

(g) Plan, implement, and evaluate the nursing care 444
provided to each patient. 445

(2) That the assessment, nursing diagnosis, planning, 446
intervention, evaluation and, as circumstances require, patient 447
advocacy, should be initiated by a direct-care registered nurse 448
at the time of the patient's admission to a hospital and 449
continue as long as the patient remains in the hospital; 450

(3) That the refusal to accept a patient care assignment 451
is an exercise of the direct-care registered nurse's duty and 452
right of patient advocacy; 453

(4) That only direct-care registered nurses are authorized 454
to perform patient assessments, although licensed practical 455
nurses may assist direct-care registered nurses in data 456
collection. 457