

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 476 Session of 2015

INTRODUCED BY GINGRICH, MILLARD, BARRAR, V. BROWN, DAVIDSON, READSHAW, SAYLOR, COHEN, TALLMAN, WATSON, D. COSTA, DEASY, HARPER, DIGIROLAMO, GROVE, BOBACK, M. K. KELLER, KORTZ, DeLUCA, MURT, GABLER, A. HARRIS, DELOZIER, HELM, MARSICO, QUINN, TOOHIL, HENNESSEY, GERGELY, GIBBONS, ADOLPH, PETRI, WARD, BENNINGHOFF, SANTARSIERO, PETRARCA, DAVIS, HANNA, GOODMAN, HARHAI, MARSHALL, MULLERY, SCHREIBER, ROEBUCK, ROZZI, REGAN, CALTAGIRONE, HARKINS AND HARHART, FEBRUARY 17, 2015

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 17, 2015

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
 2 act relating to health care; prescribing the powers and
 3 duties of the Department of Health; establishing and
 4 providing the powers and duties of the State Health
 5 Coordinating Council, health systems agencies and Health Care
 6 Policy Board in the Department of Health, and State Health
 7 Facility Hearing Board in the Department of Justice;
 8 providing for certification of need of health care providers
 9 and prescribing penalties," providing for professional nurse
 10 staffing standards.

11 The General Assembly of the Commonwealth of Pennsylvania
 12 hereby enacts as follows:

13 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
 14 as the Health Care Facilities Act, is amended by adding a
 15 chapter to read:

16 CHAPTER 8-A

17 PROFESSIONAL NURSE STAFFING STANDARDS

18 Section 801-A. Scope of chapter.

1 This chapter relates to professional nurse staffing standards
2 in general or special hospitals that will address patient safety
3 and the delivery of quality nursing care to patients.

4 Section 802-A. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Direct patient care." Care provided by a staff member with
9 direct responsibility to carry out medical regimens or nursing
10 care for one or more patients.

11 "Hospital unit." An area in a hospital where direct patient
12 care is provided.

13 "Magnet hospital." A hospital recognized by the American
14 Nurses Credentialing Center as a magnet or pathway to excellence
15 hospital.

16 "Professional nurse." An individual who holds a license to
17 practice professional nursing under the act of May 22, 1951
18 (P.L.317, No.69), known as The Professional Nursing Law.

19 "Quality measures." Measures or indicators derived from
20 various sources. The term includes, but is not limited to,
21 claims and medical records that allow the organization to
22 evaluate processes and outcomes of care and nursing-sensitive
23 indicators endorsed by the National Quality Forum or that are
24 part of the National Database for Nursing Quality Indicators.

25 "Staffing committee." The professional nurse staffing
26 committee or committees established under section 804-A.

27 "Staffing plan." The professional nurse staffing plan
28 established under section 803-A.

29 Section 803-A. Organizational development of professional nurse
30 staffing plan.

1 A hospital shall develop, implement and monitor a
2 professional nurse staffing plan for each hospital unit. The
3 development of the plan shall occur internally by a professional
4 nurse staffing committee or committees established under section
5 804-A.

6 Section 804-A. Staffing committees.

7 (a) Establishment.--A hospital shall establish at least one
8 staffing committee within 120 days of the effective date of this
9 section. The staffing committee shall meet at least two times
10 each year.

11 (b) Membership.--The membership of the staffing committee
12 shall be split evenly between professional nurses currently
13 providing direct patient care in the hospital and administrative
14 staff. The following shall apply:

15 (1) Professional nurses currently providing direct
16 patient care in the hospital shall be selected by their peers
17 on an anonymous basis to serve on the committee.

18 (2) Administrative staff may be appointed at the
19 discretion of the board of directors or president of the
20 hospital and shall include at least one individual with
21 experience with the hospital's budget or financial condition.

22 (3) For a hospital recognized as a magnet hospital, the
23 administrative staff shall include at least one individual
24 with experience of the magnet recognition process.

25 (c) Oversight.--The chairperson of the staffing committee
26 shall ensure that the staffing committee develops a staffing
27 plan for each unit and that the plans are evaluated by the
28 hospital at least twice annually.

29 (d) Vacancies.--If a vacancy occurs on the staffing
30 committee, the vacant position shall be filled no later than 60

1 days after notice of the vacancy and shall follow the parameters
2 for membership as provided for under subsection (b).

3 Section 805-A. Duties and responsibilities of hospital.

4 A hospital shall have the following duties and
5 responsibilities:

6 (1) Establish the staffing committee required to develop
7 the staffing plan prescribed in section 804-A within 120 days
8 of the effective date of this section.

9 (2) Provide the education and parameters necessary for
10 staff to create a staffing plan given the available resources
11 of the hospital so that staff can responsibly develop the
12 staffing plan within 180 days of the effective date of this
13 section.

14 (3) Adopt the staffing plan in a timeline that is
15 consistent with the hospital budgetary planning process.

16 (4) Make accessible to all nursing staff the final and
17 approved staffing plan for the units in the hospital.

18 (5) Evaluate staffing plans and report to the staffing
19 committee no less than twice annually, pertaining to
20 implementation, barriers to implementation and other concerns
21 relating to staffing plans.

22 (6) Develop and implement a plan of action with the
23 assistance of professional nurses providing direct patient
24 care and other appropriate staff, if there is evidence of
25 noncompliance with the staffing plan and the noncompliance
26 with the staffing plan negatively impacts patients and
27 professional nurses.

28 (7) Establish a process by which immediate concerns
29 about nurse staffing can be reported and addressed within
30 nursing and inform the professional nurse staff of the

1 process.

2 (8) Develop mechanisms by which nursing staff can raise
3 concerns and make recommendations about the staffing plans
4 either through the existing staffing committee or nursing
5 administration, or both.

6 (9) Ensure that the chief nursing officer receives
7 periodic reports from the staffing committee in a format
8 developed by the hospital to ensure that consistent
9 information is captured.

10 (10) Receive reports from other hospital committees,
11 including, but not limited to, the patient safety committee
12 and quality committee, that may be related to nurse staffing.

13 (11) Provide an annual report, for internal purposes, to
14 the chief executive officer, the staffing committee and the
15 governing board relating to nurse staffing, including, but
16 not limited to, compliance with the approved nurse staffing
17 plans and any actions taken to address nurse staffing issues.

18 (12) Make available to all patients information on how
19 to make a request for the staffing plan, including the
20 appropriate person, office or department that may be
21 contacted to review or obtain a copy of the plan.

22 (13) Comply with act of December 12, 1986 (P.L.1559,
23 No.169), known as the Whistleblower Law, and section
24 307(b) (4) of the act of March 20, 2002 (P.L.154, No.13),
25 known as the Medical Care Availability and Reduction of Error
26 (Mcare) Act.

27 Section 806-A. Duties and responsibilities of staffing
28 committees.

29 The staffing committee shall have the following duties and
30 responsibilities:

1 (1) Develop a staffing plan, in a timeline that is
2 consistent with the hospital budgetary planning process, for
3 each hospital unit as prescribed in section 803-A within 180
4 days following the effective date of this section.

5 (2) Elect a chairperson from within the staffing
6 committee who is a professional nurse that provides direct
7 patient care.

8 (3) Develop a staffing plan that takes into
9 consideration variables that can influence the staffing plan
10 for that hospital unit. The variables include, but are not
11 limited to, the following:

12 (i) The special skills and competencies required by
13 the nursing staff in that hospital unit to provide care
14 to the hospital unit's patient population to ensure the
15 delivery of quality care and quality outcomes.

16 (ii) Staffing standards recommended by nationally
17 recognized professional nursing organizations,
18 particularly those that address professional standards of
19 care for the selected patient population.

20 (iii) Staff skill mix, specialty certification and
21 years of experience.

22 (iv) The numbers and types of other professional,
23 paraprofessional or support staff that professional
24 nurses must collaborate with or supervise to ensure the
25 delivery of quality care and quality outcomes.

26 (v) Patient volume, patient acuity, nursing care
27 intensity and patient turnover issues that can affect the
28 numbers and types of staff required for the patient
29 population in a hospital unit.

30 (vi) The time needed to complete various key nursing

1 tasks, including, but not limited to, surveillance,
2 patient assessment, patient education and discharge
3 planning.

4 (vii) The physical environment in which care is
5 provided, including, but not limited to, the physical
6 architecture of each hospital unit, patient location and
7 available technology of the health care facility.

8 (4) Approve the plan with a vote in favor of the plan of
9 at least 66% of the staff committee.

10 (5) Ensure that the plan contains information informing
11 professional nurses how to report concerns about
12 noncompliance with the staffing plan to a person designated
13 by the staffing committee.

14 (6) Review the plan at least twice annually and adjust
15 the plan as determined by the staffing committee in
16 accordance with the provisions of this section and review
17 information received from the hospital under section 805-A.

18 Section 807-A. Duties and responsibilities of department.

19 (a) Form.--The department shall develop a form to be
20 completed by an individual designated by the department to
21 inspect a hospital under section 806.4.

22 (b) Penalty.--The department may impose an administrative
23 penalty of \$1,000 per day upon any hospital not in compliance
24 with this chapter.

25 (c) Regulations.--The department shall promulgate
26 regulations necessary to implement the provisions of this
27 chapter.

28 Section 808-A. Safe Staffing Penalty Account.

29 (a) Establishment.--The Safe Staffing Penalty Account is
30 established as a restricted account in the General Fund.

1 (b) Deposit.--The department shall deposit money collected
2 from the penalty imposed under section 807-A(b) into the
3 account.

4 (c) Use.--Money in the account is appropriated on a
5 continuing basis to the department for use in the performance of
6 its duties.

7 Section 809-A. Confidentiality.

8 The following shall apply:

9 (1) The department shall ensure confidentiality of any
10 reports made under this chapter in accordance with the act of
11 June 10, 2009 (P.L.1, No.1), known as the Preventable Serious
12 Adverse Events Act.

13 (2) The department shall ensure the confidentiality of
14 the annual report required by section 805-A(11). The annual
15 report shall not be included in the discovery process of any
16 subsequent lawsuits filed against a hospital.

17 Section 2. This act shall take effect in 180 days.