

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 63

Session of  
2019INTRODUCED BY J. WARD, LANGERHOLC, PHILLIPS-HILL, COSTA,  
SCHWANK, BARTOLOTTA, MENSCH AND DINNIMAN, JANUARY 14, 2019

REFERRED TO HEALTH AND HUMAN SERVICES, JANUARY 14, 2019

## 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 and establishing the Safe Staffing Penalty  
11 Account.

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

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

17 CHAPTER 8-A18 PROFESSIONAL NURSE STAFFING STANDARDS

19 Section 801-A. Scope of chapter.

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

1 Section 802-A. Definitions.

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

5       "Direct patient care." Care provided by a professional nurse  
6       who has accepted the direct responsibility to carry out medical  
7       regimens or nursing care for one or more patients.

8       "Hospital unit." An area in a hospital where direct patient  
9       care is provided. The term shall include a long-term acute care  
10      unit.

11      "Long-term acute care unit." A unit of a hospital whose  
12      patients have a length of stay greater than 25 days and that  
13      provides specialized acute care of medically complex patients  
14      who are critically ill.

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

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

21      "Quality measures." Measures or indicators including, but  
22      not limited to, claims and medical records that allow the  
23      organization to evaluate processes and outcomes of care and  
24      nursing-sensitive indicators endorsed by the National Quality  
25      Forum or that are part of the National Database for Nursing  
26      Quality Indicators.

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

29      "Staffing plan." The professional nurse staffing plan  
30      established under section 803-A.

1        "Unforeseeable emergent circumstance." Any of the following:

2            (1) An unforeseeable declared national, State or  
3            municipal emergency.

4            (2) A highly unusual or extraordinary event which  
5            substantially affects the provision of needed health care  
6            services or increases the need for health care services,  
7            including:

- 8            (i) an act of terrorism;
- 9            (ii) a natural disaster; and
- 10            (iii) a widespread disease outbreak.

11        Section 803-A. Organizational development of professional nurse  
12            staffing plan.

13        A hospital shall develop, implement and monitor a  
14        professional nurse staffing plan for each hospital unit. The  
15        development of the plan shall occur internally by a professional  
16        nurse staffing committee or committees established under section  
17        804-A and shall be made available to the department as  
18        established under section 808-A.

19        Section 804-A. Staffing committees.

20            (a) Establishment.--A hospital shall establish at least one  
21        staffing committee within 120 days of the effective date of this  
22        section. The staffing committee shall meet at least two times  
23        each year.

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

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

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

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

(c) Oversight.--The chairperson of the staffing committee shall ensure that the staffing committee develops a staffing plan as required in section 803-A and that the plan is evaluated by the hospital at least twice annually.

(d) Vacancies.--If a vacancy occurs on the staffing committee, the vacant position shall be filled no later than 60 days after notice of the vacancy and shall follow the parameters for membership as provided for under subsection (b).

Section 805-A. Duties and responsibilities of staffing committees.

The staffing committee shall have the following duties and responsibilities:

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

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

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

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

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

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

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

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

(vi) The time needed to complete various key nursing tasks, including, but not limited to, surveillance, patient assessment, patient education and discharge planning.

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

(viii) Routine fluctuations, such as admissions, discharges and transfers.

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

1                   (5) Ensure that the plan contains information informing  
2 professional nurses how to report concerns about  
3 noncompliance with the staffing plan to a person designated  
4 by the staffing committee.

5                   (6) Review the plan at least twice annually and adjust  
6 the plan as determined by the staffing committee in  
7 accordance with the provisions of this section and review  
8 information received from the hospital under section 806-A.

9 Section 806-A. Duties and responsibilities of hospital.

10                  A hospital shall have the following duties and  
11 responsibilities:

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

15                  (2) Provide the education and parameters necessary for  
16 the committee to create a staffing plan given the available  
17 resources of the hospital so that the committee can  
18 responsibly develop the staffing plan within 180 days of the  
19 effective date of this section.

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

22                  (4) Make accessible to all professional nursing staff  
23 the final and approved staffing plan for the units in the  
24 hospital.

25                  (5) Evaluate the staffing plan and report to the  
26 staffing committee no less than twice annually, pertaining to  
27 implementation, barriers to implementation and other concerns  
28 relating to staffing plans.

29                  (6) Develop and implement a plan of action with the  
30 assistance of professional nurses providing direct patient

1 care and other appropriate staff, if there is evidence of  
2 noncompliance with the staffing plan and the noncompliance  
3 with the staffing plan negatively impacts patients and  
4 professional nurses.

5 (7) Establish a process by which immediate concerns  
6 about nurse staffing can be reported and addressed within  
7 nursing and inform the professional nurse staff of the  
8 process.

9 (8) Develop mechanisms by which professional nursing  
10 staff can raise concerns and make recommendations about the  
11 staffing plans either through the existing staffing committee  
12 or nursing administration, or both.

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

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

20 (11) Provide an annual report, for internal purposes, to  
21 the chief executive officer, the staffing committee and the  
22 governing board relating to nurse staffing, including, but  
23 not limited to, compliance with the approved nurse staffing  
24 plans and any actions taken to address nurse staffing issues.

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

29 (13) In the event of an unforeseeable emergent  
30 circumstance, notify, through its hospital administration,

1       the chairperson within 24 hours that immediate efforts were  
2       made to meet the staffing plan.

3       (14) Comply with act of December 12, 1986 (P.L.1559,  
4       No.169), known as the Whistleblower Law, and section  
5       307(b) (4) of the act of March 20, 2002 (P.L.154, No.13),  
6       known as the Medical Care Availability and Reduction of Error  
7       (Mcare) Act.

8       (15) Comply with the act of October 9, 2008 (P.L.1376,  
9       No.102), known as the Prohibition of Excessive Overtime in  
10      Health Care Act.

11      Section 807-A. Protections for professional nurses.

12      (a) Refusal of assignment.--A professional nurse who refuses  
13      an assignment that is in conflict with a hospital's staffing  
14      plan shall not be deemed to have engaged in negligent action or  
15      patient abandonment or to be in violation of professional  
16      nursing laws or regulations.

17      (b) Retaliation prohibited.--A hospital may not retaliate  
18      against a professional nurse for serving on a staffing committee  
19      or participating in the development, approval or review of a  
20      staffing plan.

21      Section 808-A. Duties and responsibilities of department.

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

25      (b) Penalty.--The department may impose an administrative  
26      penalty of \$1,000 per day upon a hospital not in compliance with  
27      this chapter.

28      (c) Regulations.--The department shall promulgate  
29      regulations necessary to implement the provisions of this  
30      chapter.

1    Section 809-A. Safe Staffing Penalty Account.

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

4        (b) Deposit.--The department shall deposit money collected  
5    from the penalty imposed under section 808-A(b) into the  
6    account.

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

10    Section 810-A. Confidentiality.

11        The department shall ensure confidentiality of:

12            (1) Reports made under this chapter in accordance with  
13    the act of June 10, 2009 (P.L.1, No.1), known as the  
14    Preventable Serious Adverse Events Act.

15            (2) The annual report required by section 806-A(11). The  
16    annual report shall not be included in the discovery process  
17    of any subsequent lawsuits filed against a hospital.

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