



THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA

SENATE BILL 848 NURSE STAFFING LEVELS

Senate Bill 848 (SB 848) was introduced during the 2011-2012 legislative session and was referred to the Senate Public Health and Welfare Committee on March 28, 2011. The primary sponsor is Senator Tim Solobay (D-Washington).

The proposed legislation can be downloaded from:

<http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2011&sind=0&body=S&type=B&N=0848>

SB 848 amends the Health Care Facilities Act and seeks to set the maximum number of patients that may be under a single nurse's care for each of the various types of units in an acute care hospital. The proposed legislation ties hospital licensure to adherence to the nurse-to-patient ratios and to compliance and recordkeeping. The proposed legislation also imposes penalties and sanctions on hospitals for non-compliance.

SUMMARY OF KEY PROVISIONS

Powers of the Department of Health

The proposed legislation charges the Department of Health to promulgate rules and regulations that:

- set forth direct care nurse-to-patient ratios;
- prescribe the process and method for approving facility's acuity systems; and
- provides for a system to report the failure to comply with the requirements of the law as well as provide public access to information regarding reports of inspections, results, deficiencies and corrections. This is to take place within six months of the effective date of the regulations.

Duties Outlined for Health Care Facilities

As a condition of licensing, each health care facility—excluding extended care facilities—must submit annually to the Department of Health a documented staffing plan together with a written certification that the staffing plan is sufficient to provide appropriate care to its patients for the ensuing year. In addition, the staffing plan must:

- identify and employ an approved acuity system for addressing fluctuations in actual patient acuity levels;
- identify the assessment tool used to validate the acuity system;
- factor in other activity including discharges, transfers, admissions, and any administrative and support tasks that are expected of the direct-care nurses;
- factor in the staffing level of and services provided by other health care personnel;
- include a written assessment of the accuracy of the prior year's staffing plan;
- identify each nurse staff classification referenced in the plan including a statement setting forth the minimum qualifications for each classification; and
- be produced in consultation with a majority of the direct-care nurses within each department or unit or with the certified collective bargaining representative of the direct-care nurses, where applicable.

Policies to be Developed by Health Care Facilities

Each facility required to have a staffing plan will be responsible for the development, adoption of, and dissemination to their direct-care nurses a written policy that details the circumstances under which a direct-care nurse may refuse a work assignment. At a minimum, the policy shall permit a direct-care nurse to refuse an assignment wherein:

- the nurse is not prepared by education, training, or experience to safely fulfill the assignment; and
- the assignment would violate the requirements of the law.

The policy will be required to contain procedures for the following:

- reasonable requirements for prior notice to the nurse's supervisor regarding the nurse's request for being relieved of the assignment or duty; and
- where feasible, an opportunity for the supervisor to review the nurse's request and to decide whether to remedy the conditions of the assignment, to relieve the nurse of the assignment, or to deny the nurse's request.

Additionally, the policy should outline a process that permits the nurse to exercise their right to refuse the assignment or continuance of on-duty status when the supervisor denies the request to be relieved if:

- the supervisor rejects the request without proposing a remedy or the proposed remedy would be inadequate or untimely;
- the complaint and investigation process with a regulatory agency would be untimely to address the concern; and
- the nurse—in good faith—believes the assignment meets conditions justifying refusal.

The proposed legislation also outlines that pursuant to a work assignment policy, a nurse who refuses an assignment shall not be deemed to have engaged in negligent or incompetent action, patient abandonment or, otherwise to have violated applicable nursing law.

Staffing Plan Requirements

The proposed legislation outlines that the staffing plan must incorporate the following direct-care nurse-to-patient ratios during one shift:

- one nurse to one patient in the operating room and trauma emergency units;
- one nurse to two patients in all critical care areas including emergency critical care and all intensive care units, labor and delivery units, and post-anesthesia units;
- one nurse to three patients in the ante partum, emergency room, pediatrics, step-down, and telemetry units;
- one nurse to four patients in the intermediate care nursery and the medical/surgical and acute care psychiatric units;
- one nurse to five patients in rehabilitation units; and
- one nurse to six patients in the postpartum (three couplets) and well-baby nursing units.

The proposed legislation also outlines that

- a nurse administrator or supervisor who does not have principal responsibility as a direct-care nurse shall not be included in the calculation of the nurse-to-patient ratio;
- the Department of Health has the authority to establish and require a staffing plan to have higher nurse-to-patient ratios than those set forth in the regulations;
- a notice prepared by the Department of Health setting forth the mandatory provisions of the law relating to staffing must be posted in a conspicuous place readily accessible to the general public;
- a statement of the mandatory and actual daily nurse staffing levels in each nursing department or unit must be posted in a conspicuous place readily accessible to the general public;
- the staffing plan filed with the Department of Health must be made available to the public upon request; and

- a copy of the current staffing plan must be made readily available to the nursing staff during each work shift that includes documentation of the number of direct-care nurses required to be present during the shift based on the facility's approved acuity system as well as the actual number of direct-care nurses present during the shift.

Recordkeeping

As a condition of licensure, each health care facility required to have a staffing plan shall be responsible to maintain accurate daily records showing:

- the number of patients admitted, released and present in each nursing department or unit;
- the individual acuity level of each patient; and
- the identity and duty hours of each direct-care nurse.

Additionally, each nursing department and unit will be required to maintain daily statistics of:

- mortality;
- morbidity;
- infection;
- accident;
- injury; and
- medical errors.

All records will be required to be maintained for a period of seven years and will be required to be available upon request to the Department of Health or to the public provided that the information released shall comply with applicable patient privacy laws and regulations.

Penalties for Non-Compliance

The proposed legislation outlines that:

- any facility that falsifies documentation required by the law shall be prohibited from receiving any medical assistance payments for a period of six months subsequent to the final order of violation;
- any facility that fails to comply with the requirements of the law may be assessed a civil penalty of up to \$10,000 for each day of noncompliance; and
- any facility that fails to report or falsifies information, or coerces, threatens, intimidates or otherwise influences another person to fail to report or to falsify information may be assessed a penalty of up to \$10,000 for each incident.

Nurse Recruitment

The proposed legislation amends the Health Care Facilities Act to include a section (§902.2) regarding nurse recruitment. This amendment includes provisions for nursing education grant programs that:

- support outreach programs at elementary and secondary schools;
- provides mentors for high school students designed to encourage them to enter a career in professional nursing;
- provides scholarships and/or tuition reimbursement to Pennsylvania residents from diverse racial and ethnic backgrounds who want to become registered nurses. The scholarships and tuition reimbursements may be conditioned on a commitment to the hospital of paid service for up to three years.

Additionally, the Department of Health would award grants to:

- health care facilities to assist in the creation of career ladder programs that encourage employees to obtain the education required to become registered nurses. Preference would be given to health care facilities that have active labor management cooperative programs; and
- encourage health care facilities to loan professional nursing staff to serve as faculty at approved nursing schools and/or nursing education programs.

Effective Date

- Section 902.2—Nurse Recruitment—shall take effect 90 days following passage of the proposed legislation.
- The remainder of the act shall take effect one year following passage.