AN ACT Relating to the Washington state patient safety act; amending RCW 70.56.020; adding new sections to chapter 70.41 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. The legislature finds that research demonstrates the critical role that registered nurses play in improving patient safety and quality of care. Greater numbers of registered nurses available to care for hospitalized patients are key to reducing errors, complications, and adverse patient care events. Moreover, higher nurse staffing levels result in improved staff safety and satisfaction and reduced incidences of workplace injuries. In addition, health care professional, technical, and support staff comprise vital components of the patient care team, bringing their particular skills and services to ensuring quality patient care. Therefore, in order to protect patients and to support greater retention of registered nurses, to promote evidence-based nurse staffing, and to increase transparency of health care data and decision making, the legislature finds that ensuring sufficient nurse staffing to meet patient care needs is an urgent public policy priority.
NEW SECTION. Sec. 2. The definitions in this section apply throughout this section and sections 3 through 5, 7, and 8 of this act unless the context clearly requires otherwise.

(1) "Hospital" has the same meaning as defined in RCW 70.41.020, except that "hospital" also includes the state hospitals as defined in RCW 72.23.010.

(2) "Intensity" means the level of patient needs in terms of nursing care as determined by a registered nurse providing direct patient care, taking into account at least the following factors:
   (a) Severity and urgency of the patient's condition;
   (b) Complexity of either planning or providing, or both, the care required by the patient;
   (c) Scheduled or anticipated procedures or events, including those that necessitate increased frequency of assessment or intervention;
   (d) Age and cognitive and functional ability of the patient, including ability to perform self-care activities;
   (e) Availability of patient social supports including institutional, family, or community support;
   (f) Level of patient adherence or ability to comply with patient care;
   (g) Patient and family educational needs, including assessment of learning capabilities of patient and family;
   (h) Intactness of family unit, the availability of family to provide either emotional support or functional support, or both, and the ability of the family to participate in patient decision-making processes;
   (i) Communications skills of the patient; and
   (j) Other needs identified by the patient and by the registered nurse.

(3) "Nursing personnel" means registered nurses, licensed practical nurses, and unlicensed assistive nursing personnel providing direct patient care.

(4) "Patient assignment limits" means the maximum number of patients that a hospital may assign to a registered nurse at any one time.

(5) "Patient care unit" means any unit or area of the hospital that provides patient care.
(6) "Skill mix" means the numbers and relative percentages of registered nurses, licensed practical nurses, and unlicensed assistive personnel among the total number nursing personnel.

(7) "Staffing committee" means the committee established by a hospital under section 4 of this act.

NEW SECTION. Sec. 3. (1) By September 1, 2007, the secretary shall appoint the advisory committee on nurse staffing. The advisory committee on nurse staffing consists of fifteen members, who include:

(a) Six representatives from professional and labor organizations representing nurses involved in direct patient care, to include at least four registered nurses, three of whom provide direct patient care;

(b) Two representatives of an organization representing hospitals;

(c) Two registered nurses in managerial or executive roles, who are representatives of an organization representing nurse executives;

(d) One nursing faculty member of an academic institution preparing registered nurses;

(e) One consumer representative;

(f) The secretary or the secretary's designee;

(g) One chief executive officer or chief operating officer of a hospital; and

(h) One human resources director or executive of a health care facility who is a representative of an organization representing health care human resources executives.

(2) The advisory committee on nurse staffing shall:

(a) Recommend patient assignment limits to be adopted by the department;

(b) Recommend quality indicators in addition to those specified in section 5 of this act; and

(c) Make other recommendations regarding the development and implementation of hospital staffing plans as the secretary requests.

(3) In making its recommendations, the advisory committee on nurse staffing shall consider:

(a) Current research findings regarding patient safety, outcomes of care, nurse staffing, and related areas;

(b) Reports and recommendations issued by authoritative national and state bodies and agencies, including but not limited to the
institute of medicine, the joint commission on accreditation of healthcare organizations, the national quality forum, and the agency for healthcare research and quality;

(c) Guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations;

(d) Relevant information regarding legislation or rules on nurse staffing considered or adopted in other states;

(e) Different levels of intensity, complexity, or need presented by patients in different types of patient care units; and

(f) Availability of health care professional, technical, and support staff whose skills and services are essential to delivering quality patient care.

(4)(a) By March 1, 2008, the department shall establish patient assignment limits to apply to all hospitals in the state, based on the findings and recommendations of the advisory committee on nurse staffing. These patient assignment limits represent the maximum number of patients for which any registered nurse may be assigned at any one time to provide care. This number includes patients for whose care the registered nurse is responsible, but for whom aspects of care have been delegated to other nursing personnel. In establishing patient assignment limits, the department may establish different limits for different types of patient care units or areas.

(b) Patient assignment limits must serve as a minimum staffing standard. Actual staffing levels on any hospital unit during any shift must be determined by the staffing plan developed by the hospital staffing committee, utilizing the criteria specified in section 4 of this act. However, compliance with these patient assignment limits alone is not sufficient to demonstrate compliance with the requirements for development and implementation of staffing plans under section 4 of this act.

(c) Patient assignment limits apply:

(i) To individual registered nurse assignments, and may not be construed as establishing average assignments for a hospital or patient care unit; and

(ii) At all times that a registered nurse is on duty, including times when other nurses are away from the unit, on a break, or otherwise not providing patient care.
NEW SECTION. Sec. 4. (1) By January 1, 2008, each hospital shall establish a staffing committee, at least one-half of whose members are registered nurses currently providing direct patient care. However, the composition of the staffing committee must be consistent with any applicable provisions of the collective bargaining agreement, if any, between the hospital and its nursing staff. If registered nurses are represented by a collective bargaining representative, the committee's direct-care registered nurse members must be selected by that collective bargaining representative. Participation in the committee by a hospital employee shall be considered a part of the employee's regularly scheduled workweek.

(2)(a) By September 1, 2008, each hospital shall implement a staffing plan that sets the minimum number and skill mix of nursing personnel required on each shift in each unit in the hospital in which patient care is provided. The staffing plans must be developed by the hospital staffing committee.

(b)(i) Staffing levels set by the staffing plan may not include patient care assignments that exceed the patient assignment limits established under section 3(4) of this act.

(ii) Staffing plans must be based on at least the following additional criteria for each unit:

(A) Census, including total numbers of patients on the unit on each shift at any one time and activity such as patient discharges, admissions, and transfers;

(B) Level of intensity of all patients and nature of the care to be delivered on each shift;

(C) Skill mix;

(D) Level of experience and specialty certification or training of nursing personnel providing care;

(E) The need for specialized or intensive equipment;

(F) The architecture and geography of the patient care unit, including but not limited to placement of patient rooms, treatment areas, nursing station, medication preparation areas, and equipment; and

(G) Staffing guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations.

(iii) Staffing plans must at least:
(A) Include appropriate limits on the use of agency and traveling nurses;
(B) Be consistent with the scopes of practice for registered nurses and licensed practical nurses and the scope of legally permissible duties of unlicensed assistive personnel;
(C) Include adequate staffing to allow for staff time off, illnesses, meal and break time, and educational, health, and other leaves; and
(D) Include a process for review by the staffing committee that ensures compliance with the staffing plan, provides for the review of incidents and staff concerns, and tracks staffing patterns, the number of patients and the patients' conditions, and the intensity of the patients' nursing care needs. These reviews must be performed at least semiannually.

(c) The staffing plan must not diminish other standards contained in law, rules, or the terms of an applicable collective bargaining agreement, if any, between the hospital and its nursing staff, and must be consistent with any such agreement.

(d) Each hospital shall submit the staffing plan for review by the department on at least an annual basis.

(3) Each hospital shall assign nursing personnel to each patient care unit in accordance with its staffing plan. Shift-to-shift adjustments in staffing levels required by the plan may be made only if based upon assessment by a registered nurse providing direct patient care on the patient care unit, utilizing procedures specified by the staffing committee.

(4) Each hospital shall post, in a public area on each patient care unit, the staffing plan for that shift on that unit as required by this section along with a listing of actual nurse staffing levels, which shall be updated at least once every eight hours. The staffing plan and current staffing levels must also be made available to patients and visitors upon request.

(5) A hospital may not retaliate against or engage in any form of intimidation of:
(a) An employee for performing any duties or responsibilities in connection with participation on the staffing committee; or
(b) An employee, patient, or other individual who notifies the staffing committee, the hospital administration, or the department that
any schedule or nursing personnel assignment fails to comply with the
posted staffing plan, or that the hospital has failed to develop or
implement a staffing plan consistent with sections 2 through 5, 7, and
8 of this act and RCW 70.56.020(4)(a).

NEW SECTION. Sec. 5. (1) Semiannually, hospitals shall collect
and submit to the department information regarding nurse staffing. In
addition to the skill mix of registered nurses, licensed practical
nurses, unlicensed assistive nursing personnel, nurses supplied by
temporary staffing agencies including traveling nurses, and nursing
care hours per patient per day, such information must also include:
(a) Death among surgical inpatients with treatable serious
complications (failure to rescue);
(b) Prevalence of urinary tract infections;
(c) Hospital-acquired pneumonia;
(d) Incidence of patient falls; and
(e) Other measures to be established by the department.
(2) In adopting rules under this section, the department shall
determine effective means for making the information identified in
subsection (1) of this section readily available to the public,
including but not limited to posting it in public areas of the hospital
and making it available through the internet.

Sec. 6. RCW 70.56.020 and 2006 c 8 s 106 are each amended to read
as follows:
(1) The legislature intends to establish an adverse health events
and incident reporting system that is designed to facilitate quality
improvement in the health care system, improve patient safety and
decrease medical errors in a nonpunitive manner. The reporting system
shall not be designed to punish errors by health care practitioners or
health care facility employees.
(2) Each medical facility shall notify the department of health
regarding the occurrence of any adverse event and file a subsequent
report as provided in this section. Notification must be submitted to
the department within forty-eight hours of confirmation by the medical
facility that an adverse event has occurred. A subsequent report must
be submitted to the department within forty-five days after
confirmation by the medical facility that an adverse event has
1 occurred. The notification and report shall be submitted to the
department using the internet-based system established under RCW
70.56.040(2).

(3) The notification and report shall be filed in a format
specified by the department after consultation with medical facilities
and the independent entity. The format shall identify the facility,
but shall not include any identifying information for any of the health
care professionals, facility employees, or patients involved. This
provision does not modify the duty of a hospital to make a report to
the department of health or a disciplinary authority if a licensed
practitioner has committed unprofessional conduct as defined in RCW
18.130.180.

(4) (a) As part of the report filed under this section, the medical
facility must:
   (i) Include the following information:
       (A) The number of patients, registered nurses, licensed practical
           nurses, and unlicensed assistive personnel present in the relevant
           patient care unit at the time that the reported adverse event occurred;
       (B) The number of nursing personnel present at the time of the
           adverse event who have been supplied by temporary staffing agencies,
           including traveling nurses;
       (C) The number of nursing personnel, if any, on the patient care
           unit working beyond their regularly scheduled number of hours or shifts
           at the time of the event and the number of consecutive hours worked by
           each such nursing personnel at the time of the adverse event; and
       (ii) Conduct a root cause analysis of the event, describe the
           corrective action plan that will be implemented consistent with the
           findings of the analysis, or provide an explanation of any reasons for
           not taking corrective action.
   (b) The department shall adopt rules, in consultation with medical
       facilities and the independent entity, related to the form and content
       of the root cause analysis and corrective action plan. In developing
       the rules, consideration shall be given to existing standards for root
       cause analysis or corrective action plans adopted by the joint
       commission on accreditation of health facilities and other national or
       governmental entities.
   (c) For purposes of this subsection (4), "nursing personnel" and
"patient care unit" have the same meaning as defined in section 2 of this act.

(5) If, in the course of investigating a complaint received from an employee of a medical facility, the department determines that the facility has not reported an adverse event or undertaken efforts to investigate the occurrence of an adverse event, the department shall direct the facility to report or to undertake an investigation of the event.

(6) The protections of RCW 43.70.075 apply to reports of adverse events that are submitted in good faith by employees of medical facilities.

NEW SECTION. Sec. 7. (1) The department shall investigate complaints of violations of sections 2 through 5 of this act. For a violation, the department may take either or both of the following actions:

(a) Suspend or revoke the license of a hospital; and/or
(b) Impose a civil penalty in the amount of two thousand five hundred dollars in the event of a hospital's first violation of these provisions, a civil penalty in the amount of five thousand dollars in the event of a second violation, and a civil penalty in the amount of ten thousand dollars for the third and subsequent violations.

(2) The department shall maintain for public inspection records of any civil penalties, administrative actions, or license suspensions or revocations imposed on hospitals under this section.

NEW SECTION. Sec. 8. The department shall adopt rules as necessary to implement sections 2 through 5, 7, and 8 of this act and RCW 70.56.020(4)(a).

NEW SECTION. Sec. 9. This act may be known and cited as the Washington state patient safety act.

NEW SECTION. Sec. 10. Sections 2 through 5, 7, and 8 of this act are each added to chapter 70.41 RCW.

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