



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 936

2 AMENDMENT NO. _____. Amend Senate Bill 936 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Nursing Care and Quality Improvement Act.

6 Section 5. Findings. The Legislature finds and declares all
7 of the following:

8 (1) The State of Illinois has a substantial interest in
9 promoting quality care and improving the delivery of health
10 care services to patients in health care facilities in the
11 State.

12 (2) Recent changes in the health care delivery systems
13 that have resulted in higher acuity levels among patients
14 in health care facilities increase the need for improved
15 quality measures in order to protect patient care and
16 reduce the incidence of medical errors.

1 (3) Inadequate and poorly monitored registered nurse
2 staffing practices that result in too few registered nurses
3 providing direct care jeopardize the delivery of quality
4 health care.

5 (4) Numerous studies have shown that patient outcomes
6 are directly correlated to direct care registered nurse
7 staffing levels.

8 (5) Requirements for direct care registered nurse
9 staffing ratios will help address the registered nurse
10 shortage in Illinois by aiding in recruitment of new
11 registered nurses and improving retention of registered
12 nurses who are considering leaving direct patient care
13 because of the demands created by inadequate staffing.

14 (6) Establishing adequate minimum direct care
15 registered nurse-to-patient ratios that take into account
16 patient acuity measures will improve the delivery of
17 quality health care services and patient safety.

18 (7) Establishing safe staffing standards for direct
19 care registered nurses is a critical component of assuring
20 that there is adequate hospital staffing at all levels to
21 improve the delivery of quality care and protect patient
22 safety.

23 Section 10. Definitions. In this Act:

24 "Acuity system" means an established measurement tool that
25 does all of the following:

1 (1) predicts nursing care requirements for individual
2 patients based on the severity of patient illness, the need
3 for specialized equipment and technology, the intensity of
4 nursing interventions required, and the complexity of
5 clinical nursing judgment that is needed to design,
6 implement, and evaluate the patient's nursing care plan;

7 (2) details the amount of nursing care needed, both in
8 the number of nurses and in the skill mix of nursing
9 personnel required, on a daily basis for each patient in a
10 nursing department or unit;

11 (3) takes into consideration the patient care services
12 provided not only by registered nurses but also by direct
13 care licensed practical nurses and other health care
14 personnel; and

15 (4) is stated in terms that can be readily used and
16 understood by nurses.

17 "Nurse" and "registered nurse" means any person licensed as
18 a registered nurse or a registered professional nurse under the
19 Nursing and Advanced Practice Nursing Act.

20 "Direct care registered nurse" means an individual who has
21 been granted a license to practice as a registered nurse and
22 who provides bedside care for one or more patients.

23 "Director" means the Director of Public Health.

24 "Department" means the Department of Public Health.

25 "Employment" includes the provision of services under a
26 contract or other arrangement.

1 "Hospital" means an entity licensed under the Hospital
2 Licensing Act.

3 "Staffing plan" means a staffing plan required under
4 Section 15 of this Act.

5 Section 15. Staffing plan required.

6 (a) Each hospital shall implement a staffing plan that (i)
7 provides adequate, appropriate, and quality delivery of health
8 care services, (ii) protects patient safety, and (iii) is
9 consistent with the requirements of this Act.

10 (b) Subject to Section 20 of this Act, the requirements of
11 subsection (a) shall take effect not later than one year after
12 the effective date of this Act.

13 Section 20. Minimum direct care registered
14 nurse-to-patient ratios.

15 (a) For the purposes of this Section:

16 "Assigned" means the registered nurse has responsibility
17 for the provision of care to a particular patient within his or
18 her scope of practice.

19 "Assist" means that licensed nurses may provide patient
20 care beyond their patient assignments if the tasks performed
21 are specific and time-limited.

22 "Declared state-of-emergency" means a state-of-emergency
23 that has been declared by the federal government or the head of
24 the appropriate State or local governmental agency having

1 authority to declare that the State, county, municipality, or
2 locality is in a state-of-emergency, but does not include
3 consistent understaffing.

4 (b) A hospital's staffing plan shall provide that, during
5 each shift within a unit of the hospital, a direct care
6 registered nurse may be assigned to not more than the following
7 number of patients in that unit:

8 (1) One patient in operating room units and trauma
9 emergency units.

10 (2) 2 patients in critical care units, including
11 emergency critical care and intensive care units, labor and
12 delivery units, and post anesthesia units.

13 (3) 3 patients in ante partum units, emergency room
14 units, pediatrics units, step-down units, and telemetry
15 units.

16 (4) 4 patients in intermediate care nursery units,
17 specialty care units, medical or surgical units, and acute
18 care psychiatric units.

19 (5) 5 patients in rehabilitation units.

20 (6) 6 patients in postpartum (3 couplets) units and
21 well-baby nursery units.

22 Registered nurse-to-patient ratios represent the maximum
23 number of patients who may be assigned to one registered nurse
24 at any one time. There shall be no averaging of the number of
25 patients and the total number of registered nurses on the unit
26 during any one shift nor over any period of time. The

1 registered nurse-to-patient ratio must be maintained at all
2 times throughout each shift. Only nurses providing direct
3 patient care shall be included in the ratios.

4 Staffing for care not requiring a registered nurse is not
5 included within these ratios. Additional staff in excess of
6 these prescribed ratios, including non-licensed staff, shall
7 be assigned in accordance with the hospital's documented
8 patient acuity system for determining nursing care
9 requirements, considering factors that include the severity of
10 the illness, the need for specialized equipment and technology,
11 the complexity of clinical judgment needed to design,
12 implement, and evaluate the patient care plan, the ability for
13 self-care, and the licensure of the personnel required for
14 care.

15 Nurse administrators, nurse supervisors, nurse managers,
16 charge nurses, and other licensed nurses shall be included in
17 the calculation of the licensed nurse-to-patient ratio only
18 when those licensed nurses are engaged in providing direct
19 patient care. When a nurse administrator, nurse supervisor,
20 nurse manager, charge nurse, or other licensed nurse is engaged
21 in activities other than direct patient care, that nurse shall
22 not be included in the ratio. Nurse administrators, nurse
23 supervisors, nurse managers, and charge nurses who have
24 demonstrated current competence to the hospital in providing
25 care on a particular unit may relieve nurses during breaks,
26 meals, and other routine, expected absences from the unit.

1 (c) Nothing in this Section shall prohibit a nurse from
2 assisting with specific tasks within the scope of his or her
3 practice for a patient assigned to another nurse.

4 (d) Within one year after the effective date of this Act,
5 the Department shall adopt rules providing specific guidance on
6 the implementation of the minimum direct care registered
7 nurse-to-patient ratios. The Department shall adopt these
8 rules in accordance with the Department's licensing and
9 certification rules and other professional and vocational
10 rules under Illinois law.

11 (e) The Director may apply the minimum direct care
12 registered nurse-to-patient ratios established in subsection
13 (b) of this Section to a type of hospital unit not referred to
14 in that subsection (b) if that other unit performs a function
15 similar to the function performed by a unit referred to in
16 subsection (b) of this Section.

17 (f) If necessary to protect patient safety, the Director
18 may prescribe regulations that (i) increase minimum direct care
19 registered nurse-to-patient ratios under this Section to
20 further limit the number of patients that may be assigned to
21 each direct care nurse or (ii) add minimum direct care
22 registered nurse-to-patient ratios for units not referred to in
23 subsections (b) and (d). These regulations shall be prescribed
24 after consultation with affected hospitals and registered
25 nurses.

26 (g) The requirements established under this Section shall

1 not apply during a declared state-of-emergency, if a hospital
2 is requested or expected to provide an exceptional level of
3 emergency or other medical services.

4 (h) Nursing personnel from temporary nursing agencies
5 shall not be responsible for a patient care unit without having
6 demonstrated clinical and supervisory competence.

7 (i) The requirements of this Section shall take effect as
8 soon as practicable, as determined by the Director, but not
9 later than 2 years after the effective date of this Act.

10 Section 25. Development and reevaluation of staffing plan.

11 (a) In developing a staffing plan, a hospital shall provide
12 for direct care registered nurse-to-patient ratios above the
13 minimum direct care registered nurse-to-patient ratios
14 required under Section 20 of this Act, if appropriate, based
15 upon consideration of all of the following factors:

16 (1) the number of patients and acuity level of patients
17 as determined by the application of an acuity system, on a
18 shift-by-shift basis;

19 (2) the anticipated admissions, discharges, and
20 transfers of patients during each shift that impacts direct
21 patient care;

22 (3) specialized experience required of direct care
23 registered nurses on a particular unit;

24 (4) staffing levels and services provided by other
25 health care personnel in meeting direct patient care needs

1 not required by a direct care registered nurse;

2 (5) the level of technology available that affects the
3 delivery of direct patient care;

4 (6) the level of familiarity with hospital practices,
5 policies, and procedures by temporary agency direct care
6 registered nurses used during a shift; and

7 (7) obstacles to efficiency in the delivery of patient
8 care presented by physical layout.

9 (b) A hospital shall specify the system used to document
10 actual staffing in each unit for each shift.

11 (c) A hospital shall annually evaluate (i) its staffing
12 plan in each unit in relation to actual patient care
13 requirements and (ii) the accuracy of its acuity system and
14 update its staffing plan and acuity system to the extent
15 appropriate based on the evaluation.

16 (d) A staffing plan of a hospital shall be developed and
17 subsequent reevaluations shall be conducted under this Section
18 on the basis of input from direct care registered nurses at the
19 hospital or, if the nurses are represented through collective
20 bargaining, from the applicable recognized or certified
21 collective bargaining representative of the nurses.

22 (e) A hospital shall submit to the Director its staffing
23 plan and any annual updates under subsection (c).

24 (f) Nothing in this Act shall be construed to permit
25 conduct prohibited under the National Labor Relations Act or
26 under the Federal Labor Relations Act of 1978.

1 Section 30. Protection of nurses and other individuals.

2 (a) A nurse may refuse to accept an assignment as a nurse
3 in a hospital if either of the following conditions apply:

4 (1) the assignment would violate the provisions of
5 Sections 15, 20, or 25; or

6 (2) the nurse is not prepared by education, training,
7 or experience to fulfill the assignment without
8 compromising the safety of any patient or jeopardizing his
9 or her license.

10 The requirements of this subsection (a) shall apply to
11 refusals occurring on or after the effective date of this Act,
12 except that the requirements of paragraph (2) of this
13 subsection (a) shall not apply to refusals in any hospital
14 before the requirements of Section 15 of this Act apply to that
15 hospital.

16 (b) No hospital shall discharge, discriminate against, or
17 retaliate against a nurse in any manner with respect to any
18 aspect of employment, including discharge, promotion,
19 compensation, or terms, conditions, or privileges of
20 employment, based on the nurse's refusal of a work assignment
21 under subsection (a). The requirements of this subsection (b)
22 shall apply to refusals occurring on or after the effective
23 date of this Act.

24 (c) No hospital shall file a complaint or a report against
25 a nurse with the appropriate State professional disciplinary

1 agency because of the nurse's refusal of a work assignment
2 under subsection (a). The requirements of this subsection (c)
3 shall apply to refusals occurring on or after the effective
4 date of this Act.

5 (d) Any nurse who has been discharged, discriminated
6 against, or retaliated against or against whom a complaint has
7 been filed in violation of this Section may bring a cause of
8 action in a State court. A nurse who prevails in the cause of
9 action shall be entitled to one or more of the following:

10 (1) Reinstatement.

11 (2) Reimbursement of lost wages, compensation, and
12 benefits.

13 (3) Attorneys' fees.

14 (4) Court costs.

15 (5) Other damages.

16 The requirements of this subsection (d) shall apply to
17 refusals occurring on or after the effective date of this Act.

18 (e) A nurse or other individual may file a complaint with
19 the Director against a hospital that violates any provision of
20 this Act. For any complaint filed, the Director shall do all of
21 the following:

22 (1) receive and investigate the complaint;

23 (2) determine whether a violation of this Act as
24 alleged in the complaint has occurred; and

25 (3) if such a violation has occurred, issue an order
26 that the complaining nurse or individual shall not suffer

1 any retaliation under subsections (b), (c), or (f).

2 (f) A hospital shall not discriminate or retaliate in any
3 manner with respect to any aspect of employment, including
4 hiring, discharge, promotion, compensation, or terms,
5 conditions, or privileges of employment, against any
6 individual who in good faith, individually or in conjunction
7 with another person or persons, does any of the following:

8 (1) reports a violation or a suspected violation of
9 this Act to the Director, a public regulatory agency, a
10 private accreditation body, or the management personnel of
11 the hospital;

12 (2) initiates, cooperates, or otherwise participates
13 in an investigation or proceeding brought by the Director,
14 a public regulatory agency, or a private accreditation body
15 concerning matters covered by this Act; or

16 (3) informs or discusses with other individuals or with
17 representatives of hospital employees a violation or
18 suspected violation of this Act.

19 For the purposes of this subsection (f), an individual
20 shall be deemed to be acting in good faith if the individual
21 reasonably believes that the information reported or disclosed
22 is true and that a violation of this Act has occurred or may
23 occur.

24 The requirements of this subsection (f) shall apply to
25 those actions set forth in paragraphs (1) and (3) of this
26 subsection (f) and occurring on or after the effective date

1 this Act. The requirements of this subsection (f) shall apply
2 to initiation, cooperation, or participation in an
3 investigation or proceeding on or after the effective date of
4 this Act.

5 (g) Beginning 18 months after the effective date of this
6 Act, a hospital shall post in an appropriate location in each
7 unit a conspicuous notice in a form specified by the Director
8 that shall do each of the following:

9 (1) explain the rights of nurses and other individuals
10 under this Section; and

11 (2) include a statement that a nurse or other
12 individual may file a complaint with the Director against a
13 hospital that violates the provisions of this Act and
14 provide instructions on how to file this complaint.

15 Section 35. Penalties. The Director may impose civil
16 penalties or suspend, revoke, or place conditional provisions
17 upon a license of a hospital for a violation of any provision
18 of this Act. The Department shall adopt by rule a schedule
19 establishing the amount of civil penalty that may be imposed
20 for any violation of Sections 15, 20, 25, or 30 of this Act
21 when there is a reasonable belief that safe patient care has
22 been or may be negatively impacted. Each violation of a
23 staffing plan shall be considered a separate violation.

24 In addition to any other monies set aside and appropriated
25 to the Department for nursing scholarships awarded pursuant to

1 the Nursing Education Scholarship Law, revenues collected from
2 fines incurred under this Act shall be allocated to the
3 Department for that same purpose.".