Bill Summary
HB3585 – Hospital Patient Protection
Feb 18, 2019

Actions

<table>
<thead>
<tr>
<th>Date</th>
<th>Chamber</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/15/2019</td>
<td>House</td>
<td>Filed with the Clerk by Rep. Theresa Mah</td>
</tr>
<tr>
<td>2/15/2019</td>
<td>House</td>
<td>First Reading</td>
</tr>
<tr>
<td>2/15/2019</td>
<td>House</td>
<td>Referred to Rules Committee</td>
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Bill Summary:
Notes: Throughout the summary, unless otherwise qualified, “nurse” means direct care registered professional nurse. Numbers (ex. 10.1) preceding sentences refer to section numbers in the bill.

- Creates the Hospital Patient Protection Act.
- Provides for minimum nurse-to-patient staffing ratios in hospitals, long-term acute care (LTAC) hospitals, and ambulatory surgical treatment centers (ASTC).
  - 10.1. Each hospital shall provide staffing by nurses in accordance with nurse-to-patient staffing requirements and ratios specified in this Act
  - Staffing for care not requiring a nurse shall be determined under Section 10-30.
  - 10.1.b. No hospital shall assign a nurse to a clinical unit or patient care area unless that hospital and such nurse determine that the nurse has demonstrated and validated current competence in providing care in that unit or area and has also received orientation to that hospital's clinical area sufficient to provide competent safe, therapeutic, and effective nursing care to patients in that area. The policies and procedures of the hospital shall contain the hospital’s criteria for making this determination.
  - 10.5. Each hospital, LTAC hospital, and ASTC shall provide that, at all times during each shift within each clinical unit and each patient care area, a nurse shall not be assigned at any time more than the maximum number of patients described in the nurse-to-patient ratios in this Article.
  - 10.5.b.1. Each patient shall be assigned to a nurse at all times and may not be assigned to more than one nurse at any time unless each nurse has no other patient assignments.

- 10.10. Ratios
  - Emergency Department:
    - 2 nurses must be physically present in ED at all times; 1 assigned to only triage.
    - 1 nurse: 1 critical trauma patient
    - 1 nurse: 2 critical care patients
    - 1 nurse: 3 non-critical, non-critical trauma patients (10.15)

- 10.15. Ratios
  - Patient Care Areas:
    | 1 nurse: 1 patient          | Medical complications |
    | Active labor                 | Obstertrical complications |
    | Conscious sedation           | Unstable or in resuscitation period newborn |
    | During a cesarean delivery   | If OR circulating nurse  |
### 1 nurse: 2 patients

<table>
<thead>
<tr>
<th>Acute respiratory care</th>
<th>Intensive care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burn units</td>
<td>Labor and delivery</td>
</tr>
<tr>
<td>Coronary care</td>
<td>Neonatal intensive care</td>
</tr>
<tr>
<td>Critical care</td>
<td>Patient care areas</td>
</tr>
<tr>
<td>Immediate post-partum patients</td>
<td>Post-anesthesia recovery (regardless of the type of anesthesia the patient received)</td>
</tr>
</tbody>
</table>

### 1 nurse: 3 patients

<table>
<thead>
<tr>
<th>Ante-partum not in active labor</th>
<th>Pediatric unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical decision unit</td>
<td>Step-down or intermediate intensive care unit</td>
</tr>
<tr>
<td>Combined labor/delivery/post-partum unit or patient care area</td>
<td>Telemetry unit</td>
</tr>
<tr>
<td>Observation unit</td>
<td></td>
</tr>
</tbody>
</table>

### 1 nurse: 4 patients

<table>
<thead>
<tr>
<th>Combined post-cesarean delivery mothers and newborns unit</th>
<th>Pre-surgical/admission unit or patient care area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical unit</td>
<td>Psychiatric or other specialty care unit or patient care area</td>
</tr>
<tr>
<td>Mothers only unit</td>
<td>Recently born infants unit</td>
</tr>
<tr>
<td>Post-partum unit</td>
<td>Surgical unit</td>
</tr>
<tr>
<td>Post-surgical gynecological unit</td>
<td></td>
</tr>
</tbody>
</table>

### 1 nurse: 5 patients

<table>
<thead>
<tr>
<th>Rehabilitation unit or patient care area</th>
<th>Well-baby nursery</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skilled nursing facility</td>
<td></td>
</tr>
</tbody>
</table>

### 1 nurse: 6 patients [or three couplets (mother and baby)]

| Postpartum units or patient care areas | \[In the event of multiple births, the total number of mothers plus infants assigned to a single nurse shall never exceed 6.\] |

- 10.20.a. Identifying a clinical unit or patient care area by a name or term other than those listed in this Article, does not affect a hospital, LTAC hospital, or ASTCs' requirement to staff the unit at the nurse-to-patient ratios identified for the level of intensity or type of care described in this Article.

- 10.20.b. Patients shall be cared for only on clinical units or patient care areas where the level of intensity, type of care, and direct care registered professional nurse-to-patient ratios meet the individual requirements and needs of each patient. The use of acuity-adjustable clinical units or patient care areas is strictly prohibited.

- 10.25. Any method, software, or tool used to create or evaluate a staffing plan adopted by a hospital, LTAC hospital, or ASTC shall be established in coordination with nurses and shall be transparent in all respects, including disclosure of detailed documentation of the methodology used to determine nursing staffing and identifying each factor, assumption, and value used in applying such methodology. (b) The Department shall establish procedures to provide that the documentation submitted under subsection (a) is available for public inspection in its entirety.
10.30. The assigned nurse shall determine whether (1) the number of patients assigned to a nurse should be reduced, relative to the applicable numerical ratio and/or (2) additional nursing staff, such as licensed practical nurses, certified nursing assistants, and other ancillary staff, excluding medical assistants, shall be assigned.

10.30.b. Any assignment of additional staff shall be based on the assigned nurse's comprehensive nursing assessment of the severity and complexity of the individual patient's nursing care needs; the intensity of nursing interventions required; and the need for specialized equipment.

10.35. Every hospital shall keep a record of the actual nurse, licensed practical nurse, certified nursing assistant, and other ancillary staff assignments to individual patients documented on a day-to-day, shift-by-shift basis and must keep copies of its staff assignments on file for 3 years.

10.40. Every hospital shall plan for routine fluctuations in its patient census. If a health care emergency causes a change in the number of patients, the hospital must demonstrate efforts to maintain required staffing levels. "Health care emergency" means an emergency declared by the federal government or the head of a State or local governmental entity.

- Requires a hospital, LTAC hospital, and ASTC to post certain provisions of the Act for review by the hospital's employees and patients and by the public.
  - 10.50. Every hospital shall post the required minimum ratios of nursing staff to patients on each clinical unit or patient care area, additional staffing requirements as determined by the assigned nurse, and the actual nurse-to-patient ratio, number of staff, and staff mix provided. Every hospital shall give to each patient a toll-free telephone number for the Department of Public Health to report inadequate staffing or care.

- Prohibits a hospital, LTAC hospital, and ASTC from interfering with a nurse's exercise of those rights, and prohibits other retaliatory or discriminatory action by a hospital.
  - 10.45. Prohibited Activities:
    1. Unlicensed personnel may not perform nurse functions under the supervision of a nurse.
    2. Unlicensed personnel may not perform tasks that require the clinical assessment, professional judgment, and skill of a nurse.
    3. Mandatory overtime may not be imposed to meet this Article.
    4. Lay-offs of licensed or practical nurses, certified nursing assistants, or other ancillary staff may not be imposed to meet the nurse-to-patient ratio requirements of this Article.
    5. Medical assistants may not be assigned to clinical care units or patient care areas including the emergency department, GI Labs, or cardiac diagnostic and/or intervention labs.
    6. An ambulatory surgical center shall not assign medical assistants to clinical care units or patient care areas.
    7. A hospital, LTAC hospital, or ASTC shall not employ video monitors or any form of electronic visualization of a patient as a substitute for the direct observation required for patient assessment by the nurse or required for patient protection.

- 10.55. Use of rapid response teams as first responders prohibited. In no case may a hospital, LTAC hospital, or ASTC use rapid response teams as first responders.

- Provide for Whistleblower Protections.
  30.1. A nurse may object to, or refuse to participate in, any activity, policy, practice, assignment, or task if: (1) in good faith the nurse reasonably believes it to be a violation of the nurse-to-patient rations under this Act; or (2) the nurse is not prepared by education, training,
or experience to fulfill the assignment without compromising the safety or any patient or jeopardizing the license of the nurse.

30.5. A hospital, LTAC hospital, or ASTC shall not retaliate, discriminate, or otherwise take adverse action based on:
   - the nurse’s refusal to complete an assignment as described in Section 30-1;
   - such nurse’s or person’s opposition to any hospital policy, practice, or action that such nurse in good faith believes violates this Act;
   - a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any governmental entity, regulatory agency, or private accreditation body, made a civil claim or demand, or filed an action relating to the care, services, or conditions of the hospital or of any affiliated or related facilities;

A hospital, LTAC hospital, or ambulatory surgical treatment centers, shall not (1) Interfere with, restrain, or deny the exercise of, or attempt to deny the exercise of, a right conferred this Act; (2) Coerce or intimidate any individual regarding the exercise of, or an attempt to exercise, a right conferred by this Act.

- Sets forth essential functions of direct care registered professional nurses relating to hospital patient care.
  - 15.1.
    - (a) A nurse, holding a valid license to practice as a registered professional nurse, shall directly perform the following essential functions:
      1. Continuous and ongoing comprehensive nursing assessments of a patient’s condition based upon the independent professional judgment of the nurse.
      2. Planning, implementation, and evaluation of the nursing care provided to each patient. The implementation of nursing care may be assigned by the nurse responsible for the patient to other licensed nursing staff or to unlicensed staff, however: (A) The nurse assigned to a patient must determine in professional judgment that nursing personnel to be assigned patient care tasks possess the necessary preparation and capability to competently perform the assigned tasks; (B) The nurse may assign the implementation of nursing care only when the nurse is physically present and available.
      3. Assessment, planning, implementation, and evaluation of patient education, including ongoing discharge education of each patient.
    - (b) The planning and delivery of patient care (i) shall reflect all elements of the nursing process, including comprehensive nursing assessment, nursing diagnosis, planning, intervention, evaluation, and, as circumstances require, patient advocacy, and (ii) shall be initiated by a nurse at the time of a patient’s admission to the hospital.
    - (c) The nursing plan for a patient’s care shall be discussed with and developed as a result of coordination with the patient, the patient’s family, or other representatives of the patient, when appropriate, and staff of other disciplines involved in the care of the patient.
    - (d) The nurse shall evaluate the effectiveness of the care plan (i) through comprehensive nursing assessments based on direct observation of the patient’s physical condition and behavior, signs and symptoms of illness, and reactions to treatment and (ii) through communication with the patient and other care givers as applicable. The nurse shall modify the plan as needed.
    - (e) Information related to the patient’s initial comprehensive nursing assessment and reassessments, nursing diagnosis, plan, intervention, evaluation, and patient advocacy shall be permanently recorded, as narrative registered professional nurse progress notes, in the patient’s medical record. The practice of "charting by exception" is expressly prohibited.
15.5. Patient assessment.
(a) Patient assessment requires (i) direct observation of the patient's signs and symptoms of illness, reaction to treatment, behavior and physical condition, and (ii) interpretation of information obtained from the patient and others, including other care givers as applicable.
(b) Only a nurse who is physically present with the patient is authorized to perform patient assessments. A licensed practical nurse may assist a nurse in data collection.

15.10. Determining nursing care needs of patients.
(a) The nursing care needs of each patient shall be determined by a nurse through the process of ongoing comprehensive nursing assessments, nursing diagnosis, and formulation and adjustment of nursing care plans.
(b) The prediction of individual patient nursing care needs for prospective assignment nurses shall be based on individual comprehensive nursing assessments by the nurse assigned to each patient and in accordance with Article 10.

15.15. Independent professional judgment.
(a) Competent performance of the essential functions of a nurse requires the exercise of independent professional judgment in the exclusive interests of the patient. The exercise of such independent professional judgment, unencumbered by the commercial or revenue-generation priorities of a hospital, LTAC hospital, or ambulatory surgical treatment center or other employing entity of a nurse, is necessary to assure safe, therapeutic, effective and competent treatment of hospital patients and is essential to protect the health and safety of the people of Illinois.
(b) The exercise of independent professional judgment by a nurse in the performance of the essential functions shall be provided in the exclusive interests of the patient and shall not, for any purpose, be considered, relied upon, or represented as a job function, authority, responsibility, or activity undertaken in any respect for the purpose of serving the business, commercial, operational, or other institutional interests of the hospital.
(c) No hospital, LTAC hospital, ASTC, or other health care institution shall utilize technology that (1) limits a nurse in performing functions that are part of the nursing process, including full exercise of independent professional judgment in assessment, planning, implementation and evaluation of care or (2) limits a nurse in acting as a patient advocate in the exclusive interests of the patient. Technology shall not be skill-degrading, interfere with a nurse's provision of individualized patient care, or override a nurse's independent professional judgment.

- Sets forth certain rights of nurses, including the rights to protected speech and patient advocacy.
  20.1. Professional obligation. A nurse has the obligation and right to act as a patient's advocate, as circumstances require, including, without limitation 1) ensuring that patients have an opportunity to make informed decisions before the care is provided;
  2) initiating action to improve the patient's health care or to change decisions or activities which, in the professional judgment of the nurse, are against the interests or wishes of the patient; (3) initiating action to improve health care practices in the hospital, including providing professional input on the methods of patient care documentation and the number of ancillary and support staff who should be available and present to supplement the work of nurses; (4) advocating and monitoring activities to ensure hospital compliance with this Act to ensure that safe nurse staffing levels are implemented; and (5) determining whether a health information technology program or tool displaces nurses from patient care, interferes with the nursing process, or otherwise compromises a nurse's professional judgment
  20.5. Acceptance of patient care assignments. A nurse is always responsible for providing safe, therapeutic, and competent nursing care to assigned patients. Before accepting a patient assignment, a nurse must have the necessary knowledge, judgment, skills, and ability to
provide the required care. If a direct care is not, in the nurse's professional judgment, clinically competent to perform the care required for a patient to be assigned for nursing care, she or he should not accept the patient care assignment. Such a refusal to accept a patient care assignment is an exercise of the nurse's duty and right of patient advocacy.

• Provides for monetary and equitable relief for violations of the Act, and provides for civil penalties.
  o 25.1. Violations.
    (a) A hospital, LTAC hospital, or ambulatory surgical treatment center found to have knowingly or willfully violated, or aided and abetted a violation of, any provision of this Act is subject to:
    (1) enforcement action by the Department, including the use of injunctive relief available to force compliance with the Act or closure of the hospital; and
    (2) a civil money penalty assessed by the Department of not more than $25,000 for each violation and an additional $10,000 per shift for each clinical care unit or patient care area until the violation is corrected.
    (b) The Attorney General shall enforce penalties imposed under this Section in the county in which the violation occurred.
    (c) The penalties authorized under this Section are in addition to any other penalties that may be prescribed by law. Penalties collected under this Section shall be deposited into the General Revenue Fund.

• Amends the Hospital Licensing Act and the Nurse Practice Act to provide that in the case of a conflict between a provision of either of those Acts and a provision of the Hospital Patient Protection Act, the Hospital Patient Protection Act shall control.

• Effective January 1, 2020.