Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 169 (as introduced 2-3-05)
Sponsor: Senator Bruce Patterson
Committee: Health Policy

Date Completed: 4-18-05

CONTENT

The bill would amend the Public Health Code to do the following:

-- Require a hospital to submit to the Department of Community Health (DCH) an annual nursing staffing plan.
-- Establish minimum nurse-to-patient ratios that a hospital would have to incorporate in its staffing plan.
-- Require a hospital to establish and implement an acuity system for addressing fluctuations that required increased staffing levels.
-- Prohibit a hospital from using mandatory overtime as a staffing strategy in the delivery of safe patient care.
-- Require the DCH to assess an administrative fine for failure to submit or meet the requirements of a staffing plan.
-- Dedicate fine revenue to the Nursing Scholarship Program.

Under the bill, "staffing plan" would mean a written plan that established the minimum specific number of registered professional nurses required to be present in each unit for each shift to ensure safe patient care.

The bill would define "acuity system" as a system established to measure patient needs and nursing care requirements for each unit to ensure safe patient care based upon the severity of each patient's illness and need for specialized equipment and technology, the intensity of nursing interventions required for each patient, and the complexity of the clinical nursing judgment needed to design, implement, and evaluate each patient's care plan.

The bill is described below in further detail.

Staffing Plan

Within one year after the bill's effective date, and each subsequent year, a hospital would have to submit a staffing plan to the DCH. Each hospital would be responsible for the development and implementation of a written staffing plan that provided sufficient, appropriately qualified nursing staff in each unit within the hospital in order to meet the individualized needs of its patients. Each hospital would have to develop an assessment tool that evaluated the actual patient acuity levels and nursing care requirements for each unit during each shift. The hospital would have to use the assessment tool to make adjustments to the staffing plan as needed to ensure safe patient care.

To assist in the development of the staffing plan, the hospital would have to establish a staffing committee for each unit. At least half of the members would have to be registered professional nurses who were direct care providers in that unit. If the nurses were under a collective bargaining agreement, the collective bargaining representative would have to designate the nurses from within each unit to serve on the staffing committee. Participation on the committee would have to be considered a part of the nurse's regularly scheduled workweek. A hospital could not retaliate against a nurse who participated on the committee. The committee would have to establish a staffing strategy for that unit if the patients' needs within that unit for a shift exceeded the minimum direct care registered professional nurse-to-patient ratios described below.

A hospital would have to post its staffing plan for each unit in a conspicuous place within that unit for public review. Upon request, the hospital would have to provide the public with copies of the staffing plan that was filed with the DCH. The hospital would have to make available for each member of the nursing staff a copy of the plan for his or her unit, including the number of direct care registered professional nurses required for each shift and the names of those nurses assigned and present during each shift.

Nurse-to-Patient Ratios

Within three years after the bill's effective date, a hospital's staffing plan would have to incorporate, at a minimum, the following direct care registered professional nurse-to-patient ratios:

-- Adult or pediatric critical care: one to one.
-- Operating room: one to one.
-- During the second and third stages of labor: one to one.
-- During the first stage of labor: one to two.
-- Intermediate care newborn nursery: one to three.
-- Noncritical antepartum patients: one to four.
-- Postpartum mother baby couplet: one to three.
-- Postpartum or well-baby care: one to six.
-- Postanesthesia care unit: one to two.
-- In the emergency department, one to three for nontrauma or noncritical care, one to one for trauma or critical care, and one R.N. for triage.
-- Stepdown: one to three.
-- Telemetry: one to three.
-- Medical/surgical: one to four.
-- Pediatrics: one to four.
-- Behavioral health: one to four.
-- Rehabilitation care: one to five.

In computing the nurse-to-patient ratio, the hospital could not include a registered professional nurse who was not assigned to provide direct patient care in that unit or who was not oriented, qualified, and competent to provide safe patient care in that unit. In the event of an unforeseen emergent situation, however, a hospital could include a staff member who was a registered professional nurse who was not normally used in computing the ratio requirement because the staff member performed primarily administrative functions if he or she provided direct patient care during the emergency, but the staff member could be included in the computation only for as long as the emergency existed. In computing the nurse-to-patient ratio for the operating room, the hospital could not include a circulating R.N. or a first assistant R.N.

("Unforeseen emergent situation" would mean an unusual or unpredictable circumstance that increased the need for patient care, including an act of terrorism, a disease outbreak, adverse weather conditions, or a natural disaster.)

The bill specifies that the registered professional nurse-to-patient ratio established for each unit would not limit, reduce, or otherwise affect the need for other licensed or unlicensed health care professionals, assistants, or support personnel necessary to provide safe patient care within the unit.

The bill specifies that a staffing plan developed under the bill and the minimum staffing ratios would be minimums and would have to be increased as needed to provide safe patient care as determined by the hospital's acuity system or assessment tool. A hospital could not use mandatory overtime as a staffing strategy in the delivery of safe patient care except in the event of an unforeseen emergent situation.

Acuity System

Within two years after the bill's effective date, each hospital would have to have established and implemented an acuity system for addressing fluctuations in actual patient acuity levels and nursing care requirements requiring increased staffing levels above the minimums set forth in the bill. The assessment tool would have to be used annually to review the acuity system's accuracy.

Administrative Fine

If a hospital failed to submit an annual staffing plan or did not meet the required plan established for each unit during each shift, as adjusted in accordance with the hospital's acuity system or assessment tool to maintain safe patient care, the hospital would be in violation of the bill. A designated representative of the hospital would have to report each violation to the DCH, which would have to assess an administrative fine of up to $10,000 per violation. Each day that the staffing plan was not filed and each shift that did not satisfy the minimum staffing requirements for that unit would be a separate violation. The DCH would have to take into account each violation when making licensure decisions.

The fines would have to be deposited into the Nurse Professional Fund and spent only for the operation and administration of the Michigan Nursing Scholarship Program established under the Michigan Nursing Scholarship Act.

Proposed MCL 333.21525 Legislative Analyst: Julie Koval

FISCAL IMPACT

This bill would lead to a moderate increase in administrative cost for the Department of Community Health related to the collection of hospital staffing plans.

Hospital facilities operated by the State and local units of government would face additional costs associated with the creation of a staffing plan, the formulation of an assessment tool to determine proper staffing levels, and increased salary and benefit costs if additional nursing staff were necessary to fulfill the requirements of the bill.

The Bureau of Health Professions in the U.S. Department of Health and Human Services has estimated that demand for registered nurses in the State of Michigan will exceed the available supply by about 1,500 nurses in 2005. If the staffing standards established by this bill further increased the demand for registered nurses in the Michigan, the salary and benefit costs for nurses employed by the State and local units of government likely would increase.

The State would receive an indeterminate amount of revenue from administrative fines collected from hospitals that violated the staffing plan requirements. Fine revenue would be dedicated to the Nurse Professional Fund for the operation of the Michigan Nursing

Scholarship Program. The Nurse Professional Fund in FY 2004-05 received $823,100 in restricted revenue.

Fiscal Analyst: David Fosdick

S0506\s169sa