

HOUSE BILL No. 4008

January 22, 2009, Introduced by Rep. Liss and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 21525.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21525. (1) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS
2 SECTION AND ANNUALLY THEREAFTER, A HOSPITAL SHALL SUBMIT TO THE
3 DEPARTMENT A STAFFING PLAN AS PROVIDED UNDER THIS SECTION. EACH
4 HOSPITAL IS RESPONSIBLE FOR THE DEVELOPMENT AND IMPLEMENTATION OF A
5 WRITTEN STAFFING PLAN THAT PROVIDES SUFFICIENT, APPROPRIATELY
6 QUALIFIED NURSING STAFF IN EACH UNIT WITHIN THE HOSPITAL IN ORDER
7 TO MEET THE INDIVIDUALIZED NEEDS OF ITS PATIENTS. EACH HOSPITAL
8 SHALL DEVELOP AN ASSESSMENT TOOL THAT EVALUATES THE ACTUAL PATIENT
9 ACUITY LEVELS AND NURSING CARE REQUIREMENTS FOR EACH UNIT DURING
10 EACH SHIFT. THE HOSPITAL SHALL USE THE ASSESSMENT TOOL TO MAKE

1 ADJUSTMENTS TO THE STAFFING PLAN AS NEEDED TO ENSURE SAFE PATIENT
2 CARE.

3 (2) TO ASSIST IN THE DEVELOPMENT OF A STAFFING PLAN, THE
4 HOSPITAL SHALL ESTABLISH A STAFFING COMMITTEE FOR EACH UNIT AND AT
5 LEAST 1/2 OF THE MEMBERS SHALL BE REGISTERED PROFESSIONAL NURSES
6 WHO ARE DIRECT CARE PROVIDERS IN THAT UNIT. IF THE NURSES IN THE
7 HOSPITAL ARE UNDER A COLLECTIVE BARGAINING AGREEMENT, THE
8 COLLECTIVE BARGAINING REPRESENTATIVE SHALL DESIGNATE THE NURSES
9 FROM WITHIN EACH UNIT TO SERVE ON THE STAFFING COMMITTEE FOR THAT
10 UNIT. PARTICIPATION ON THE STAFFING COMMITTEE SHALL BE CONSIDERED A
11 PART OF THE NURSE'S REGULARLY SCHEDULED WORKWEEK. A HOSPITAL SHALL
12 NOT RETALIATE AGAINST A NURSE WHO PARTICIPATES ON THE STAFFING
13 COMMITTEE. THE STAFFING COMMITTEE SHALL ESTABLISH A STAFFING
14 STRATEGY FOR THAT UNIT IF THE PATIENTS' NEEDS WITHIN THAT UNIT FOR
15 A SHIFT EXCEEDS THE REQUIRED MINIMUM DIRECT CARE REGISTERED
16 PROFESSIONAL NURSE-TO-PATIENT RATIOS SET FORTH UNDER SUBSECTION
17 (4).

18 (3) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION,
19 EACH HOSPITAL SHALL HAVE ESTABLISHED AND IMPLEMENTED AN ACUITY
20 SYSTEM FOR ADDRESSING FLUCTUATIONS IN ACTUAL PATIENT ACUITY LEVELS
21 AND NURSING CARE REQUIREMENTS REQUIRING INCREASED STAFFING LEVELS
22 ABOVE THE MINIMUMS SET FORTH UNDER SUBSECTION (4). THE ASSESSMENT
23 TOOL SHALL BE USED ANNUALLY TO REVIEW THE ACCURACY OF THE ACUITY
24 SYSTEM ESTABLISHED UNDER THIS SUBSECTION.

25 (4) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, A
26 HOSPITAL'S STAFFING PLAN SHALL INCORPORATE, AT A MINIMUM, THE
27 FOLLOWING DIRECT CARE REGISTERED PROFESSIONAL NURSE-TO-PATIENT

1 RATIOS FOR EACH OF THE CORRESPONDING UNITS:

2 (A) CRITICAL CARE - ADULT OR PEDIATRIC: 1 TO 1.

3 (B) OPERATING ROOM: 1 TO 1.

4 (C) LABOR AND DELIVERY:

5 (i) DURING SECOND AND THIRD STAGES OF LABOR: 1 TO 1.

6 (ii) DURING FIRST STAGE OF LABOR: 1 TO 2.

7 (iii) INTERMEDIATE CARE NEWBORN NURSERY: 1 TO 3.

8 (iv) NONCRITICAL ANTEPARTUM PATIENTS: 1 TO 4.

9 (v) POSTPARTUM MOTHER BABY COUPLET: 1 TO 3.

10 (vi) POSTPARTUM OR WELL-BABY CARE: 1 TO 6.

11 (D) POSTANESTHESIA CARE UNIT: 1 TO 2.

12 (E) EMERGENCY DEPARTMENT:

13 (i) NONTRAUMA OR NONCRITICAL CARE: 1 TO 3.

14 (ii) TRAUMA OR CRITICAL CARE PATIENT: 1 TO 1.

15 (iii) ONE R.N. FOR TRIAGE.

16 (F) STEPDOWN: 1 TO 3.

17 (G) TELEMETRY: 1 TO 3.

18 (H) MEDICAL/SURGICAL: 1 TO 4.

19 (I) PEDIATRICS: 1 TO 4.

20 (J) BEHAVIORAL HEALTH: 1 TO 4.

21 (K) REHABILITATION CARE: 1 TO 5.

22 (5) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IN
23 COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
24 REQUIRED UNDER SUBSECTION (4), THE HOSPITAL SHALL NOT INCLUDE A
25 REGISTERED PROFESSIONAL NURSE WHO IS NOT ASSIGNED TO PROVIDE DIRECT
26 PATIENT CARE IN THAT UNIT OR WHO IS NOT ORIENTED, QUALIFIED, AND
27 COMPETENT TO PROVIDE SAFE PATIENT CARE IN THAT UNIT. IN THE EVENT

1 OF AN UNFORESEEN EMERGENT SITUATION, A HOSPITAL MAY INCLUDE A STAFF
2 MEMBER WHO IS A REGISTERED PROFESSIONAL NURSE WHO IS NOT NORMALLY
3 USED IN COMPUTING THE RATIO REQUIREMENT BECAUSE THE STAFF MEMBER
4 PERFORMS PRIMARILY ADMINISTRATIVE FUNCTIONS IF THE STAFF MEMBER
5 PROVIDES DIRECT PATIENT CARE DURING THE EMERGENCY, BUT SHALL BE
6 INCLUDED IN THE COMPUTATION ONLY FOR AS LONG AS THE EMERGENCY
7 EXISTS. IN COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT
8 RATIO FOR THE OPERATING ROOM, THE HOSPITAL SHALL NOT INCLUDE A
9 CIRCULATING R.N. OR A FIRST ASSISTANT R.N.

10 (6) THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
11 ESTABLISHED FOR EACH UNIT UNDER SUBSECTION (4) DOES NOT LIMIT,
12 REDUCE, OR OTHERWISE AFFECT THE NEED FOR OTHER LICENSED OR
13 UNLICENSED HEALTH CARE PROFESSIONALS, ASSISTANTS, OR SUPPORT
14 PERSONNEL NECESSARY TO PROVIDE SAFE PATIENT CARE WITHIN THE UNIT.

15 (7) THE HOSPITAL SHALL POST THE HOSPITAL'S STAFFING PLAN FOR
16 EACH UNIT IN A CONSPICUOUS PLACE WITHIN THAT UNIT FOR PUBLIC
17 REVIEW. UPON REQUEST, THE HOSPITAL SHALL PROVIDE COPIES OF THE
18 STAFFING PLAN THAT ARE FILED WITH THE DEPARTMENT TO THE PUBLIC. THE
19 HOSPITAL SHALL MAKE AVAILABLE FOR EACH MEMBER OF THE NURSING STAFF
20 A COPY OF THE STAFFING PLAN FOR HIS OR HER UNIT, INCLUDING THE
21 NUMBER OF DIRECT CARE REGISTERED PROFESSIONAL NURSES REQUIRED FOR
22 EACH SHIFT AND THE NAMES OF THOSE REGISTERED PROFESSIONAL NURSES
23 ASSIGNED AND PRESENT DURING EACH SHIFT. A STAFFING PLAN DEVELOPED
24 UNDER THIS SECTION AND THE MINIMUM STAFFING RATIOS ESTABLISHED
25 UNDER THIS SECTION ARE MINIMUMS AND SHALL BE INCREASED AS NEEDED TO
26 PROVIDE SAFE PATIENT CARE AS DETERMINED BY THE HOSPITAL'S ACUITY
27 SYSTEM OR ASSESSMENT TOOL. A HOSPITAL SHALL NOT USE MANDATORY

1 OVERTIME AS A STAFFING STRATEGY IN THE DELIVERY OF SAFE PATIENT
2 CARE EXCEPT IN THE EVENT OF AN UNFORESEEN EMERGENT SITUATION.

3 (8) A HOSPITAL THAT FAILS TO SUBMIT AN ANNUAL STAFFING PLAN AS
4 REQUIRED UNDER THIS SECTION OR THAT DOES NOT MEET THE REQUIRED
5 STAFFING PLAN ESTABLISHED FOR EACH UNIT DURING EACH SHIFT, AS
6 ADJUSTED IN ACCORDANCE WITH THE HOSPITAL'S ACUITY SYSTEM OR
7 ASSESSMENT TOOL TO MAINTAIN SAFE PATIENT CARE, IS IN VIOLATION OF
8 THIS SECTION. EACH VIOLATION SHALL BE REPORTED TO THE DEPARTMENT BY
9 THE HOSPITAL'S DESIGNATED REPRESENTATIVE, AND THE DEPARTMENT SHALL
10 ASSESS AN ADMINISTRATIVE FINE OF UP TO \$10,000.00 FOR EACH
11 VIOLATION. EACH DAY THAT THE STAFFING PLAN IS NOT FILED AND EACH
12 SHIFT THAT DOES NOT SATISFY THE MINIMUM STAFFING REQUIREMENTS FOR
13 THAT UNIT IS A SEPARATE VIOLATION. THE DEPARTMENT SHALL TAKE INTO
14 ACCOUNT EACH VIOLATION OF THIS SECTION WHEN MAKING LICENSURE
15 DECISIONS.

16 (9) THE FINES ASSESSED UNDER THIS SECTION SHALL BE DEPOSITED
17 INTO THE NURSE PROFESSIONAL FUND ESTABLISHED UNDER SECTION 16315
18 AND EXPENDED ONLY FOR THE OPERATION AND ADMINISTRATION OF THE
19 MICHIGAN NURSING SCHOLARSHIP PROGRAM ESTABLISHED UNDER THE MICHIGAN
20 NURSING SCHOLARSHIP ACT, 2002 PA 591, MCL 390.1181 TO 390.1189.

21 (10) AS USED IN THIS SECTION:

22 (A) "ACUITY SYSTEM" MEANS A SYSTEM ESTABLISHED TO MEASURE
23 PATIENT NEEDS AND NURSING CARE REQUIREMENTS FOR EACH UNIT TO ENSURE
24 SAFE PATIENT CARE BASED UPON THE SEVERITY OF EACH PATIENT'S ILLNESS
25 AND NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE INTENSITY OF
26 NURSING INTERVENTIONS REQUIRED FOR EACH PATIENT, AND THE COMPLEXITY
27 OF THE CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT, AND

1 EVALUATE EACH PATIENT'S CARE PLAN.

2 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY HEALTH.

3 (C) "MANDATORY OVERTIME" MEANS A MANDATED ASSIGNMENT FOR A
4 REGISTERED PROFESSIONAL NURSE TO WORK MORE THAN HIS OR HER
5 REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED
6 WORK SCHEDULE.

7 (D) "REGISTERED PROFESSIONAL NURSE" OR "R.N." MEANS THAT TERM
8 AS DEFINED IN SECTION 17201.

9 (E) "STAFFING PLAN" MEANS A WRITTEN PLAN THAT ESTABLISHES THE
10 MINIMUM SPECIFIC NUMBER OF REGISTERED PROFESSIONAL NURSES REQUIRED
11 TO BE PRESENT IN EACH UNIT FOR EACH SHIFT TO ENSURE SAFE PATIENT
12 CARE.

13 (F) "UNFORESEEN EMERGENT SITUATION" MEANS AN UNUSUAL OR
14 UNPREDICTABLE CIRCUMSTANCE THAT INCREASES THE NEED FOR PATIENT CARE
15 INCLUDING, BUT NOT LIMITED TO, AN ACT OF TERRORISM, A DISEASE
16 OUTBREAK, ADVERSE WEATHER CONDITIONS, OR A NATURAL DISASTER.