Safe Staffing for Hospital Care

Over the past decade, hospitals have reduced nurse staffing levels, lowering the quality of health care provided and endangering the lives of patients.

★ 2004 POLICY SUMMARY ★

Safe Staffing for Hospital Care

Summary

- **Over the past decade, hospitals have reduced per-patient staffing levels by 13 percent.**
- **With reduced hospital staffing levels, fewer nurses are burdened with greater workloads.**
- **Substandard working conditions are causing experienced nurses to leave hospital jobs, exacerbating the staffing problem.**
- **As nurse staffing levels decline, hospital patients needlessly die.**
- **California has established comprehensive standards for nurse staffing.**
- **In recent years, six states have prohibited mandatory overtime for hospital nurses.**

Over the past decade, hospitals have reduced per-patient staffing levels by 13 percent.[1]

Similarly, the proportion of registered nurses employed in hospitals decreased from 68 percent in 1988 to 59 percent in 2000. The problem is not a shortage of nurses. In fact, the supply of RNs exceeds demand—only 2.2 of the 2.7 million registered nurses in America are practicing in the profession, and only 1.3 million of those are working in hospitals.[2]

With reduced hospital staffing levels, fewer nurses are burdened with greater workloads.

Hospital managers fill gaps by requiring nurses to work mandatory overtime. A national survey found that nurses worked an average of 8½ weeks of overtime in 2000.[3] Mandatory overtime may ensure that a nurse is on duty, but it does not ensure that quality health care is provided.

Substandard working conditions are causing experienced nurses to leave hospital jobs, exacerbating the staffing problem.

Nurses remaining in hospital jobs have been stretched to the limit, and as a result they experience high levels of stress, chronic fatigue, and work-related injuries. A 2002 study of 168 Pennsylvania hospitals, for example, found that nurses with heavier workloads are more likely to report burnout and job dissatisfaction.[4] Increasingly unable to provide the quality of care their patients need, experienced nurses have been leaving hospitals for less frustrating jobs.

As nurse staffing levels decline, hospital patients needlessly die.

Understaffing is a contributing factor in 24 percent of all accidental patient deaths and injuries, according to data reported to the Joint Commission on Accreditation of Healthcare Organizations.[5] Similarly, a large-scale study published in the fall 2002 edition of the *Journal of the American Medical Association* found that every general surgery patient added to a hospital nurse's workload increases the patient's risk of death within 30 days by an average of seven percent.[6] A nationwide study by the *Chicago Tribune* found that tens of thousands of hospital patients die each year from hospital-acquired infections, largely because low staffing levels have made it difficult for hospital staff to execute proper infection control procedures.[7] In fact, according to a recent survey, more than 60 percent of nurses believe there are not enough RNs on hospital staffs to provide high-quality care, and 45 percent think the quality of care provided in their hospital has deteriorated over the previous year.[8]

California has established comprehensive standards for nurse staffing.

In order to guarantee adequate nurse staffing levels, California enacted legislation in 1999 to mandate a series of specific patient-to-nurse ratios in all hospital nursing units. The regulations to implement this legislation will take effect in January 2004.

A few other states now require specific ratios in specialty areas such as intensive care or labor and delivery units, but none require ratios in every patient care unit in every hospital as California has done.

In recent years, six states have prohibited mandatory overtime for hospital nurses.

Maine and Oregon enacted laws in 2001 to ban mandatory overtime, except during an emergency. Maryland, Minnesota, New Jersey and Washington followed suit in 2002. Some of these laws apply only to licensed nurses while others apply to all healthcare staff who directly serve patients. In each of the six states, voluntary overtime is permitted and healthcare workers are protected from retaliation if they refuse overtime assignments.

This policy summary is based in large part on information from the Service Employees International Union.

Endnotes

[1] HCIA-Sachs, "The Comparative Performance of U.S. Hospitals: The Sourcebook," 2001.

[2] U.S. Department of Health and Human Services, "The Registered Nurse Population: National Sample Survey of Registered Nurses," 2001.

[3] Service Employees International Union, survey of registered nurses, 2000.

[4] Linda Aiken et al., "Hospital Nurse Staffing and Patient Mortality, Nurse Burnout and Job Dissatisfaction," *Journal of the American Medical Association*, Fall 2002.

[5] Joint Commission of Accreditation of Healthcare Organizations, "Health Care at the Crossroads," August 7, 2002.

[6] Linda Aiken et al., "Hospital Nurse Staffing and Patient Mortality, Nurse Burnout and Job Dissatisfaction," *Journal of the American Medical Association*, Fall 2002.

[7] Michael Berens, "Infection Epidemic Carves Deadly Path; Poor Hygiene, overwhelmed Workers Contribute to Thousands of Deaths," *Chicago Tribune*, July 21, 2002.

[8] Linda Aiken and Sean Clarke, "Nurses' Reports On Hospital Care," *Health Affairs*, May/June 2001.

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For more information...

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Safe Staffing for Hospital Care Act

SECTION 1. SHORT TITLE

This Act shall be called the "Safe Staffing for Hospital Care Act."

SECTION 2. FINDINGS AND PURPOSE

(A) FINDINGS – The legislature finds that:

1. [STATE] has a substantial interest in assuring that delivery of healthcare services to patients in healthcare facilities located within this state is adequate and safe and that healthcare facilities retain sufficient nursing staff so as to promote optimal healthcare outcomes.

2. Recent changes in our healthcare delivery system are resulting in a higher acuity level among patients in healthcare facilities. Inadequate hospital staffing results in dangerous medical errors and patient infections.

3. Inadequate and poorly monitored nurse staffing practices can adversely impact the health of patients who enter hospitals and outpatient emergency and surgical centers.

4. A substantial number of nurses indicate that hospital-patient acuity measurements are inadequate and that many hospitals rarely, if ever, staff according to an acuity measurement tool.

5. Establishing staffing standards will ensure that healthcare facilities throughout the state operate in a manner that guarantees the public safety and the delivery of quality healthcare services.

6. Hospital nurses work substantial overtime hours and nurses working 12-hour shifts work the most additional overtime hours per week.

7. Mandatory overtime and lengthy work hours for direct-care nurses constitute a threat to the health and safety of patients, adversely impact the general wellbeing of nurses and result in greater turnover, which increases long-term shortages of nursing personnel.

(B) PURPOSE – This law is enacted to protect the health and safety of the residents of [STATE] by ensuring adequate protection and care for patients in healthcare facilities.

SECTION 3. SAFE STAFFING FOR HOSPITAL CARE

After section XXX, the following new section XXX shall be inserted:

(A) FACILITY STAFFING STANDARD

1. Each facility licensed pursuant to this statute shall ensure that it is staffed in a manner that provides sufficient, appropriately qualified nursing staff of each classification in each department or unit within the facility in order to meet the individualized care needs of patients.

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2. As a condition of licensing, each healthcare facility licensed pursuant to [citation] shall annually submit to the [appropriate agency] a documented staffing plan together with a written certification that the staffing plan is sufficient to provide adequate and appropriate delivery of healthcare services to patients for the ensuing year. The staffing plan must:

a. Meet the minimum requirements set forth in subsection 3.
b. Be adequate to meet any additional requirements provided by other laws or regulations.
c. Employ and identify an approved 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 plan.
d. Factor in other unit or department work, such as discharges, transfers and admissions, and administrative and support tasks, that is expected to be done by direct-care nurses in addition to direct nursing care.
e. Identify the assessment tool used to validate the acuity system relied on in the plan.
f. Identify the system that will be used to document actual staffing on a daily basis within each department or unit.
g. Include a written assessment of the accuracy of the prior year's staffing plan in light of actual staffing needs.
h. Identify each nurse staff classification referenced therein together with a statement setting forth minimum qualifications for each such classification.
i. Be developed in consultation with the direct-care nursing staff within each department or unit or, where such staff is represented, with the applicable recognized or certified collective bargaining representative(s) of the direct-care nursing staff.

3. The healthcare facility's staffing plan must incorporate, at a minimum, the following direct-care nurse-to-patient ratios: pediatric recovery room—1 to 1, operating room circulating nurse—1 to 1, special procedures (e.g. cath lab, radiology, endoscopy)—1 to 1, trauma—1 to 1, burn unit— 1 to 2, critical care—1 to 2, labor and delivery—1 to 2, adult recovery room—1 to 2, emergency room—1 to 3, oncology / chemotherapy—1 to 3, intermediate care unit—1 to 3, telemetry—1 to 3, mother / baby couplets and normal post-partum—1 to 4, pediatrics—1 to 4, psychiatric unit—1 to 4, adult medical-surgical unit—1 to 6.

4. The [appropriate agency] shall adopt regulations that establish minimum, specific, numerical direct-care nurse-to-patient ratios for other healthcare facility nursing departments and units that must be incorporated into the staffing plan.

5. The minimum numbers of direct-care nurse-to-patient staff set forth in the preceding paragraphs shall constitute the minimum numbers of direct-care nursing staff that shall be assigned to and be present within a nursing department or unit. Where the approved acuity system adopted by the facility indicates that additional staff is required, the healthcare facility must staff at the higher staffing level.

6. The skill mix reflected in a staffing plan must assure that all of the following elements of the nursing process are performed in the planning and delivery of care for each patient:

a. Assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.
b. Registered nurses must constitute at least 50 percent of the direct-care nurses included in the staffing plan.
c. The skill mix may not incorporate or assume that nursing care functions required by licensing law or regulations or accepted standards of practice to be performed by a licensed nurse are to be performed by unlicensed personnel.

7. The [Department of Health] shall adopt regulations prescribing the method by which it will approve a healthcare facility's acuity system. Such regulations may include a system for class approval of acuity systems.

(B) COMPLIANCE WITH PLAN AND RECORDKEEPING

1. As a condition of licensing, a healthcare facility must at all times staff in accordance with its staffing plan and the staffing standards set forth herein, provided, however, that nothing herein shall be deemed to preclude a healthcare facility from implementing higher direct-care nurse-to-patient staffing levels.

2. No nurse shall be assigned, or included in the count of assigned nursing staff for purposes of compliance with minimum staffing requirements, in a nursing department or unit or a clinical area within the healthcare facility without appropriate licensing, prior orientation, and verification that the nurse is capable of providing competent nursing care to the patients therein.

3. As a condition of licensure, each healthcare facility licensed under this section shall maintain accurate daily records showing:

a. The number of patients admitted, released and present in each nursing department or unit within the facility.
b. The individual acuity level of each patient present in each nursing department or unit within the facility.
c. The identity and duty hours of each direct-care nurse in each nursing department or unit within the facility.

4. As a condition of licensure, each healthcare facility shall maintain daily statistics, by nursing department and unit, of mortality, morbidity, infection, accident, injury and medical errors.

5. All records required to be kept under this subsection shall be maintained for a period of seven years.

6. All records required to be kept under this subsection shall be made available upon request to the [oversight agency] and to the public, provided, however, that information released to the public shall not contain the name or other personal identifying information, apart from acuity level, about any individual patient.

(C) MANDATORY OVERTIME AND EXCESSIVE DUTY HOURS

1. Except during a state of emergency declared by the Governor, a healthcare facility may not mandate or otherwise require, directly or indirectly, a healthcare employee to work or be in on-duty status in excess of any one of the following:

a. The scheduled work shift or duty period.
b. 12 hours in a 24-hour period.
c. 80 hours in a 14 consecutive-day period.

"Mandate" means any request which, if refused or declined by the healthcare employee, may result in discharge, discipline, loss of promotion, or other adverse employment consequence. Nothing in this subsection is intended to prohibit a healthcare employee from voluntarily working overtime.

2. Except during a state of emergency declared by the Governor:

a. No healthcare employee may work or be in on duty status more than 16 hours in any 24-hour period.
b. Any healthcare employee working 16 hours in any 24-hour period must have at least 8 consecutive hours off duty before being required to return to duty.
c. No healthcare employee may be required to work or be on-duty more than 7 consecutive days without at least one consecutive 24-hour period off duty within that time.

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3. A work shift schedule or overtime program established pursuant to a collective bargaining agreement negotiated on behalf of the healthcare employees by a bona fide labor organization may provide for mandatory on-duty hours in excess of that permitted under this subsection, provided adequate measures are included in the agreement to ensure against excessive fatigue on the part of the affected employees.

(D) EMPLOYEE RIGHTS

1. As a condition of licensure, each healthcare facility licensed under [insert statutory citation] shall adopt and disseminate to direct-care nursing staff a written policy that complies with the requirements set forth in paragraphs (2) and (3) below, detailing the circumstances under which a direct-care nurse may refuse a work assignment.

2. At a minimum, the work assignment policy shall permit a direct-care nurse to refuse an assignment for which:

a. The nurse is not prepared by education, training or experience to safely fulfill the assignment without compromising or jeopardizing patient safety, the nurse's ability to meet foreseeable patient needs, or the nurse's license.
b. The nurse has volunteered to work overtime but determines that his or her level of fatigue and / or decreased alertness would compromise or jeopardize patient safety, the nurse's ability to meet foreseeable patient needs, or the nurse's license.
c. The assignment otherwise would violate requirements set forth in this section.

3. At a minimum, the work assignment policy shall contain procedures for the following:

a. Reasonable requirements for prior notice to a nurse's supervisor regarding the nurse's request and supporting reasons for being relieved of an assignment or continued duty.
b. Where feasible, an opportunity for the supervisor to review the specific conditions supporting the nurse's request, and to decide whether to remedy the conditions, to relieve the nurse of the assignment, or to deny the nurse's request to be relieved of the assignment or continued duty.
c. A process which permits the nurse to exercise the right to refuse the assignment or continued on-duty status when the supervisor denies the request to be relieved if:
(1) The supervisor rejects the request without proposing a remedy, or the proposed remedy would be inadequate or untimely.
(2) The complaint and investigation process with the [regulatory agency] would be untimely to address the concern.
(3) The employee in good faith believes that the assignment meets conditions justifying refusal.

4. An employee is deemed to act in good faith if the employee reasonably believes that the information reported or disclosed is true, and that a violation has occurred or may occur. A healthcare facility covered by this section shall not penalize, discriminate or retaliate in any manner against an employee with respect to compensation, terms, conditions or privileges of employment, who in good faith, individually or in conjunction with another person or persons:

a. Reports a violation or suspected violation of this section to a public regulatory agency, a private accreditation body, or management personnel of the healthcare facility,
b. Initiates, cooperates or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by this section,
c. Informs or discusses with other employees, with representative(s) of the employees, with patients or patient representatives, or with the public, violations or suspected violations of this section, or
d. Otherwise avails himself or herself of the rights set forth in this section.

(E) ENFORCEMENT

1. This section may be enforced by a private cause of action under [appropriate section of state law].

2. This section shall be enforced by [appropriate state agency], which shall promulgate such regulations as are necessary to implement and administer compliance. Regulations shall include procedures to receive, investigate, and attempt to resolve complaints, and bring actions in any court of competent jurisdiction to recover appropriate relief for aggrieved employees.

3. No healthcare facility shall discharge, demote, harass or otherwise take adverse actions against any individual because such individual seeks to enforce this section, or testifies, assists or participates in any manner in an investigation, hearing or other proceeding to enforce this section.

4. In any action under this section in which an employee prevails:

a. The employee shall be awarded monetary relief, including back pay in an amount equal to the difference between the employee's actual earnings and what the employee would have earned but for the healthcare facility's unlawful practices, and an additional amount in punitive damages, as appropriate.
b. The healthcare facility shall be enjoined from continuing to violate the provisions of this section and may be ordered to take such additional affirmative steps as are necessary to ensure an end to the unlawful practices.
c. The healthcare facility shall pay a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action.

SECTION 4. EFFECTIVE DATE

This Act shall take effect on July 1, 2004.