

AMENDED IN SENATE JUNE 23, 1999

AMENDED IN ASSEMBLY JUNE 1, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 394

**Introduced by Assembly Members Kuehl
(Coauthors: Assembly Members Dutra, Gallegos, and
Villaraigosa)
(Coauthors: Senators Burton and Escutia)**

February 11, 1999

An act to add Section 2725.3 to the Business and Professions Code, and to add Section 1276.4 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as amended, Kuehl. Health facilities: nursing staff.

Existing law provides for the licensing, registration, and regulation of nurses, and sets forth the scope of practice.

This bill would prohibit a general acute care hospital, an acute psychiatric hospital, and a special hospital, as defined, from assigning an unlicensed person to perform nursing functions in lieu of a registered nurse, or from allowing unlicensed personnel under the direct clinical supervision of a registered nurse to perform certain functions.

Existing law prohibits operation of a health facility, as defined, without a license issued by the State Department of Health Services and provides for the issuance of licenses and for the regulation of health facilities and sets forth the services

to be provided therein. Willful or repeated violation of these provisions is a crime.

This bill would require *the department, with regard to* general acute care hospitals, acute psychiatric hospitals, and special hospitals, to ~~provide~~ *adopt regulations that establish* certain minimum nurse-to-patient ratios, and *would require these health facilities* to adopt written policies and procedures for training and orientation of nursing staff.

By changing the definition of an existing crime this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) Health care services are becoming complex and it
4 is increasingly difficult for patients to access integrated
5 services.

6 (b) Quality of patient care is jeopardized because of
7 staffing changes implemented in response to managed
8 care.

9 (c) To ensure the adequate protection of patients in
10 acute care settings, it is essential that qualified registered
11 nurses and other licensed nurses be accessible and
12 available to meet the needs of patients.

13 (d) The basic principles of staffing in the acute care
14 setting should be based on the patient's care needs, the
15 severity of condition, services needed, and the
16 complexity surrounding those services.

17 SEC. 2. Section 2725.3 is added to the Business and
18 Professions Code, to read:



1 2725.3. (a) A health facility licensed pursuant to
2 subdivision (a), (b), or (f), of Section 1250 of the Health
3 and Safety Code shall not assign unlicensed personnel to
4 perform nursing functions in lieu of a registered nurse
5 and may not allow unlicensed personnel to perform
6 functions under the direct clinical supervision of a
7 registered nurse that require a substantial amount of
8 scientific knowledge and technical skills, including, but
9 not limited to, any of the following:

- 10 (1) Administration of medication.
- 11 (2) Venipuncture or intravenous therapy.
- 12 (3) Parenteral or tube feedings.
- 13 (4) Invasive procedures including inserting
14 nasogastric tubes, inserting catheters, or tracheal
15 suctioning.
- 16 (5) Assessment of patient condition.
- 17 (6) Educating patients and their families concerning
18 the patient's health care problems, including
19 postdischarge care.
- 20 (7) Moderate complexity laboratory tests.

21 (b) This section shall not preclude any person from
22 performing any act or function that he or she is
23 authorized to perform pursuant to Division 2
24 (commencing with Section 500).

25 SEC. 3. Section 1276.4 is added to the Health and
26 Safety Code, to read:

27 1276.4. (a) A health facility licensed pursuant to
28 subdivision (a), (b), or (f) of Section 1250 shall ~~allocate~~
29 ~~sufficient numbers of registered nurses so as to provide a~~
30 ~~nurse-to-patient ratio as follows:~~

31 ~~(1) One licensed nurse to two patients to staff critical~~
32 ~~care units, burn units, labor and delivery, postanesthesia~~
33 ~~units, and critical patients in emergency departments~~
34 ~~requiring care in an intensive care or critical care setting.~~
35 ~~Licensed vocational nurses may constitute up to 50~~
36 ~~percent of the licensed nurses. This ratio shall not apply~~
37 ~~to neonatal intensive care units where there shall be one~~
38 ~~registered nurse to two patients. The ratio of one~~
39 ~~registered nurse to two critical care patients temporarily~~



1 ~~held in the emergency departments shall be in addition~~
2 ~~to the regularly scheduled emergency room staff.~~

3 ~~(2) There shall be sufficient nursing personnel so that~~
4 ~~one registered nurse is not serving as circulating assistant~~
5 ~~for more than one operating room.~~

6 ~~(3) One licensed nurse to three patients to staff~~
7 ~~pediatric and step-down/intermediate care units.~~

8 ~~(4) One licensed nurse to four patients to staff~~
9 ~~specialty care and telemetry.~~

10 ~~(5) One licensed nurse to six patients to staff general~~
11 ~~medical care units that include subacute care and~~
12 ~~transitional inpatient care units.~~

13 ~~(b) These ratios shall constitute the minimum number~~
14 ~~of registered and licensed nurses that shall be allocated.~~
15 ~~Additional staff shall be assigned in accordance with a~~
16 ~~documented patient classification system for~~
17 ~~determining nursing care requirements, including the~~
18 ~~severity of the illness, the need for specialized equipment~~
19 ~~and technology, the complexity of clinical judgment~~
20 ~~needed to design, implement, and evaluate the patient~~
21 ~~care plan and the ability for self-care, and the licensure~~
22 ~~of the personnel required for care.~~

23 ~~(e) determine and provide nursing staffing in~~
24 ~~accordance with this section.~~

25 *(b) Not later than March 1, 2000, the State*
26 *Department of Health Services shall adopt regulations*
27 *that establish minimum, specific, and numerical licensed*
28 *nurse-to-patient ratios for nursing staffing of hospital*
29 *patient care units on a shift-by-shift, day-by-day basis for*
30 *all health care facilities licensed pursuant to subdivision*
31 *(a), (b), or (f) of Section 1250. These ratios shall establish*
32 *the minimum level of licensed nursing staffing necessary*
33 *to ensure safe and adequate patient care by providing*
34 *sufficient staffing to allow for the planning and delivery*
35 *of care for each patient in a manner that incorporates all*
36 *of the following elements of the nursing process:*
37 *assessment, nursing diagnosis, planning, intervention,*
38 *evaluation and, as circumstances require, patient*
39 *advocacy.*



1 (c) The following nurse-to-patient ratios shall be
2 presumed by the department to be the minimum ratios
3 necessary for safe and adequate patient care:

4 (1) One licensed nurse to two patients to staff critical
5 care units, burn units, labor and delivery, postanesthesia
6 units, and critical patients in emergency departments
7 requiring care in an intensive care or critical care setting.
8 Licensed vocational nurses may constitute up to 50
9 percent of the licensed nurses. This ratio shall not apply
10 to neonatal intensive care units where there shall be one
11 registered nurse to two patients. The ratio of one
12 registered nurse to two critical care patients temporarily
13 held in the emergency departments shall be in addition
14 to the regularly scheduled emergency room staff.

15 (2) There shall be sufficient nursing personnel so that
16 one registered nurse is not servicing as circulating
17 assistant for more than one operating room.

18 (3) One licensed nurse to three patients to staff
19 pediatric and step-down or intermediate care units.

20 (4) One licensed nurse to four patients to staff
21 specialty care and telemetry.

22 (5) One licensed nurse to six patients to staff general
23 medical care units that include subacute care and
24 transitional inpatient care units.

25 (d) The department shall not adopt regulations
26 providing for nursing staffing ratios that allow for lesser
27 numbers of licensed nursing staff to patients, unless the
28 department makes the following findings with respect to
29 each licensed nurse-to-patient ratios establish for each
30 hospital patient care unit:

31 (1) The ratios provide sufficient licensed nursing staff
32 to ensure that all of the following elements of the nursing
33 process are performed in the planning and delivery of
34 care for each patient: assessment, nursing diagnosis,
35 planning, intervention, evaluation and, as circumstances
36 require, patient advocacy.

37 (2) The ratios provide sufficient licensed nursing staff
38 as defined in this section for each patient on a
39 shift-by-shift, day-by-day basis to ensure safe and
40 adequate nursing care.



1 (3) *The ratios do not assume or incorporate the*
2 *assignment of any licensed nursing functions as defined*
3 *in Section 2725.3 or duties to unlicensed assistive*
4 *personnel.*

5 (e) *If the department has not adopted nursing staffing*
6 *ratio regulations as provided in this section or the*
7 *regulations have not been implemented by March 1, 2000,*
8 *the ratios established by this section as the presumptive*
9 *minimum ratios necessary for safe and adequate patient*
10 *care shall become immediately effective.*

11 (f) "Critical care unit" as used in this section means a
12 unit that is established to safeguard and protect patients
13 whose severity of medical conditions requires continuous
14 monitoring and complex intervention by licensed
15 registered nurses.

16 ~~(d)~~

17 (g) All health facilities licensed under subdivision (a),
18 (b), or (f) or Section 1250 shall adopt written policies and
19 procedures for training and orientation of nursing staff.

20 ~~(e)~~

21 (h) No nurse or other direct patient care staff shall be
22 assigned to a nursing unit or clinical area unless that nurse
23 or other direct patient care staff has first received
24 orientation in that clinical area sufficient to provide
25 competent care to patients in that area, and has
26 demonstrated current competence in providing care in
27 that area.

28 ~~(f)~~

29 (i) The written policies and procedures for orientation
30 of nursing and direct patient care staff shall require that
31 all temporary personnel shall receive the same amount
32 and type of orientation as is required for permanent staff.

33 ~~(g)~~

34 (j) Requests for waivers to this section that do not
35 jeopardize the health, safety, and well-being of patients
36 affected and that are needed for increased operational
37 efficiency may be granted by the department to rural
38 general acute care hospitals meeting the criteria set forth
39 in paragraph (2) of subdivision (a) of Section 1250.



1 ~~(h)~~ in Section 70059.1 of Title 22 of the California Code
2 of Regulations.

3 (k) In case of conflict between this section and any
4 provision or regulation defining the scope of nursing
5 practice, the scope of practice provisions shall control.

6 SEC. 4. No reimbursement is required by this act
7 pursuant to Section 6 of Article XIII B of the California
8 Constitution because the only costs that may be incurred
9 by a local agency or school district will be incurred
10 because this act creates a new crime or infraction,
11 eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition
14 of a crime within the meaning of Section 6 of Article
15 XIII B of the California Constitution.

