

Introduced by Senator Yee

February 25, 2009

An act to amend Section 1276.4 of, and to add Section 1276.45 to, the Health and Safety Code, relating to direct care nurses.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as introduced, Yee. Health facilities: direct care nurses.

Under existing law, the Department of Consumer Affairs, Board of Registered Nursing regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would require each new direct care registered nursing hire to receive and complete an orientation to the hospital and patient care unit in which he or she will be working. It would preclude a nurse who has not completed this orientation from being assigned direct patient care, and would require observation of the nurse during the orientation by a direct care registered nurse. This bill would specify that, until the nurse completes orientation, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would exempt a state inpatient mental health hospital, a state developmental center, or a state veterans' home from these provisions.

By creating a new 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. Section 1276.4 of the Health and Safety Code is
2 amended to read:
3 1276.4. (a) By January 1, 2002, the State Department of *Public*
4 ~~Health Services~~ shall adopt regulations that establish minimum,
5 specific, and numerical licensed nurse-to-patient ratios by licensed
6 nurse classification and by hospital unit for all health facilities
7 licensed pursuant to subdivision (a), (b), or (f) of Section 1250.
8 The department shall adopt these regulations in accordance with
9 the department's licensing and certification regulations as stated
10 in Sections 70053.2, 70215, and 70217 of Title 22 of the California
11 Code of Regulations, and the professional and vocational
12 regulations in Section 1443.5 of Title 16 of the California Code
13 of Regulations. The department shall review these regulations five
14 years after adoption and shall report to the Legislature regarding
15 any proposed changes. Flexibility shall be considered by the
16 department for rural general acute care hospitals in response to
17 their special needs. As used in this subdivision, "hospital unit"
18 means a critical care unit, burn unit, labor and delivery room,
19 postanesthesia service area, emergency department, operating
20 room, pediatric unit, step-down/intermediate care unit, specialty
21 care unit, telemetry unit, general medical care unit, subacute care
22 unit, and transitional inpatient care unit. The regulation addressing
23 the emergency department shall distinguish between regularly
24 scheduled core staff licensed nurses and additional licensed nurses
25 required to care for critical care patients in the emergency
26 department.
27 (b) These ratios shall constitute the minimum number of
28 registered and licensed nurses that shall be allocated. Additional

1 staff shall be assigned in accordance with a documented patient
2 classification system for determining nursing care requirements,
3 including the severity of the illness, the need for specialized
4 equipment and technology, the complexity of clinical judgment
5 needed to design, implement, and evaluate the patient care plan
6 and the ability for self-care, and the licensure of the personnel
7 required for care.

8 (c) “Critical care unit” as used in this section means a unit that
9 is established to safeguard and protect patients whose severity of
10 medical conditions requires continuous monitoring, and complex
11 intervention by licensed nurses.

12 ~~(d) All health facilities licensed under subdivision (a), (b), or~~
13 ~~(f) of Section 1250 shall adopt written policies and procedures for~~
14 ~~training and orientation of nursing staff.~~

15 ~~(e) No registered nurse shall be assigned to a nursing unit or~~
16 ~~clinical area unless that nurse has first received orientation in that~~
17 ~~clinical area sufficient to provide competent care to patients in that~~
18 ~~area, and has demonstrated current competence in providing care~~
19 ~~in that area.~~

20 ~~(f) The written policies and procedures for orientation of nursing~~
21 ~~staff shall require that all temporary personnel shall receive~~
22 ~~orientation and be subject to competency validation consistent~~
23 ~~with Sections 70016.1 and 70214 of Title 22 of the California Code~~
24 ~~of Regulations.~~

25 ~~(g)~~

26 (d) Requests for waivers to this section that do not jeopardize
27 the health, safety, and well-being of patients affected and that are
28 needed for increased operational efficiency may be granted by the
29 state department to rural general acute care hospitals meeting the
30 criteria set forth in Section 70059.1 of Title 22 of the California
31 Code of Regulations.

32 ~~(h)~~

33 (e) In case of conflict between this section and any provision
34 or regulation defining the scope of nursing practice, the scope of
35 practice provisions shall control.

36 ~~(i)~~

37 (f) The regulations adopted by the department shall augment
38 and not replace existing nurse-to-patient ratios that exist in
39 regulation or law for the intensive care units, the neonatal intensive
40 care units, or the operating room.

1 ~~(j)~~

2 (g) The regulations adopted by the department shall not replace
3 existing licensed staff-to-patient ratios for hospitals operated by
4 the State Department of Mental Health.

5 ~~(k)~~

6 (h) The regulations adopted by the department for health
7 facilities licensed under subdivision (b) of Section 1250 that are
8 not operated by the State Department of Mental Health shall take
9 into account the special needs of the patients served in the
10 psychiatric units.

11 ~~(l)~~

12 (i) The department may take into consideration the unique nature
13 of the University of California teaching hospitals as educational
14 institutions when establishing licensed nurse-to-patient ratios. The
15 department shall coordinate with the Board of Registered Nursing
16 to ensure that staffing ratios are consistent with the Board of
17 Registered Nursing approved nursing education requirements. This
18 includes nursing clinical experience incidental to a work-study
19 program rendered in a University of California clinical facility
20 approved by the Board of Registered Nursing provided there will
21 be sufficient direct care registered nurse preceptors available to
22 ensure safe patient care.

23 SEC. 2. Section 1276.45 is added to the Health and Safety
24 Code, to read:

25 1276.45. (a) Each general acute care hospital, acute psychiatric
26 hospital, and special hospital, as defined in subdivisions (a), (b),
27 and (f) of Section 1250, shall ensure that all direct care registered
28 nurses, including new hires, casual, per diem, temporary agency,
29 registry, and traveler staff, shall receive and complete orientation
30 to the hospital and patient care unit or clinical care area in which
31 they will be working. All health facilities subject to this section
32 shall adopt written policies and procedures for the training and
33 orientation of nursing staff.

34 (b) (1) Every direct care registered nurse shall have current
35 demonstrated and validated competency required for the specific
36 individual needs of the patient population admitted to the unit or
37 clinical area before being assigned to patient care for that unit or
38 clinical area. In accordance with paragraph (2), current competency
39 may only be demonstrated and validated by the direct observation
40 of the orientee by another direct care registered nurse who has

1 previously demonstrated current competency in the relevant patient
2 population. Self-assessments are prohibited.

3 (2) The observing direct care registered nurse shall be required
4 to directly observe and assess the orientee within the relevant
5 clinical area and with the relevant patient population for a minimum
6 of five standard nursing shifts in order to determine if the orientee
7 displays the required knowledge, performance, and skills of patient
8 assessment, patient care planning, education, intervention, patient
9 evaluation, and patient advocacy to satisfactorily fulfill the duties
10 required by the Nursing Practice Act (Chapter 6 (commencing
11 with Section 2700) of Division 2 of the Business and Professions
12 Code) and the Standards of Competent Performance.

13 (c) The written policies and procedures for the orientation of
14 nursing staff shall require that all temporary personnel shall receive
15 orientation and be subject to validation of demonstrated
16 competency consistent with the requirements of this section and
17 with Sections 70016.1 and 70214 of Title 22 of the California Code
18 of Regulations.

19 (d) An orientee shall not be included in the calculation of the
20 licensed nurse-to-patient ratio required by Section 1276.4.

21 (e) As used in this section, “orientee” means a direct care
22 registered nurse who has not received and completed orientation
23 to the hospital and patient care unit or clinical area and whose
24 current competency has not been demonstrated and validated.

25 (f) This section shall not apply to a state inpatient mental health
26 hospital, as defined in Section 4100 of the Welfare and Institutions
27 Code, a state developmental center, as defined in Section 4400 of
28 the Welfare and Institutions Code, or a state veterans’ home, as
29 defined in Chapter 1 (commencing with Section 1010) of Division
30 5 of the Military and Veterans Code.

31 SEC. 3. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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