

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 360

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 amended, 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.

Existing law allows the State Department of Public Health to take into consideration the unique nature of the University of California teaching hospitals and requires the department to coordinate with the Board of Registered Nursing in setting the nurse-to-patient ratios, as specified.

This bill would remove those 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 shall adopt regulations that establish minimum, specific,
5 and numerical licensed nurse-to-patient ratios by licensed nurse
6 classification and by hospital unit for all health facilities licensed
7 pursuant to subdivision (a), (b), or (f) of Section 1250. The
8 department shall adopt these regulations in accordance with the
9 department's licensing and certification regulations as stated in
10 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

1 care unit, telemetry unit, general medical care unit, subacute care
2 unit, and transitional inpatient care unit. The regulation addressing
3 the emergency department shall distinguish between regularly
4 scheduled core staff licensed nurses and additional licensed nurses
5 required to care for critical care patients in the emergency
6 department.

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

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

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

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

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

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

36 (h) The regulations adopted by the department for health
37 facilities licensed under subdivision (b) of Section 1250 that are
38 not operated by the State Department of Mental Health shall take
39 into account the special needs of the patients served in the
40 psychiatric units.

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

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

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

(b) (1) Every direct care registered nurse shall have current demonstrated and validated competency required for the specific individual needs of the patient population admitted to the unit or clinical area before being assigned to patient care for that unit or clinical area. In accordance with paragraph (2), current competency may only be demonstrated and validated by the direct observation of the orientee by another direct care registered nurse who has previously demonstrated current competency in the relevant patient population. Self-assessments are prohibited.

(2) The observing direct care registered nurse shall be required to directly observe and assess the orientee within the relevant clinical area and with the relevant patient population for a minimum of five standard nursing shifts in order to determine if the orientee displays the required knowledge, performance, and skills of patient assessment, patient care planning, education, intervention, patient evaluation, and patient advocacy to satisfactorily fulfill the duties required by the Nursing Practice Act (Chapter 6 (commencing

1 with Section 2700) of Division 2 of the Business and Professions
2 Code) and the Standards of Competent Performance.

3 (c) The written policies and procedures for the orientation of
4 nursing staff shall require that all temporary personnel shall receive
5 orientation and be subject to validation of demonstrated
6 competency consistent with the requirements of this section and
7 with Sections 70016.1 and 70214 of Title 22 of the California Code
8 of Regulations.

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

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

15 (f) This section shall not apply to a state inpatient mental health
16 hospital, as defined in Section 4100 of the Welfare and Institutions
17 Code, a state developmental center, as defined in Section 4400 of
18 the Welfare and Institutions Code, or a state veterans’ home, as
19 defined in Chapter 1 (commencing with Section 1010) of Division
20 5 of the Military and Veterans Code.

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.