

HOUSE BILL No. 4311

February 26, 2013, Introduced by Reps. Switalski, Robinson, Slavens, Talabi, Faris, Smiley, Brunner, Cochran, Stanley, Kandrevas, LaVoy, Clemente, Hovey-Wright, Irwin, Knezek, Roberts, Banks, Abed, Darany, Zemke, Nathan, Rutledge, Stallworth, Lamonte, Geiss, Kosowski, Singh, Kivela, Yanez, Dillon, Lipton, Tlaib, Lane, Townsend, Cavanagh, Durhal, Hobbs, Schor and Oakes 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 AFTER THAT, A HOSPITAL, STATE-OWNED HOSPITAL,
3 OR STATE-OWNED FACILITY SHALL SUBMIT TO THE DEPARTMENT A STAFFING
4 PLAN AS PROVIDED UNDER THIS SECTION. EACH HOSPITAL, STATE-OWNED
5 HOSPITAL, OR STATE-OWNED FACILITY SHALL DEVELOP AND IMPLEMENT A
6 WRITTEN STAFFING PLAN THAT PROVIDES SUFFICIENT, APPROPRIATELY
7 QUALIFIED NURSING STAFF IN EACH UNIT WITHIN THE HOSPITAL, STATE-
8 OWNED HOSPITAL, OR STATE-OWNED FACILITY IN ORDER TO MEET THE
9 INDIVIDUALIZED NEEDS OF ITS PATIENTS. EACH HOSPITAL, STATE-OWNED
10 HOSPITAL, OR STATE-OWNED FACILITY SHALL DEVELOP AN ASSESSMENT TOOL

1 THAT EVALUATES THE ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE
2 REQUIREMENTS FOR EACH UNIT DURING EACH SHIFT. THE HOSPITAL, STATE-
3 OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL USE THE ASSESSMENT
4 TOOL TO MAKE ADJUSTMENTS TO THE STAFFING PLAN AS NEEDED TO ENSURE
5 SAFE PATIENT CARE.

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

23 (3) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION,
24 EACH HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL
25 ESTABLISH AND IMPLEMENT AN ACUITY SYSTEM FOR ADDRESSING
26 FLUCTUATIONS IN ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE
27 REQUIREMENTS REQUIRING INCREASED STAFFING LEVELS ABOVE THE MINIMUMS

1 SET FORTH IN SUBSECTION (4). THE ASSESSMENT TOOL SHALL BE USED
2 ANNUALLY TO REVIEW THE ACCURACY OF THE ACUITY SYSTEM ESTABLISHED
3 UNDER THIS SUBSECTION.

4 (4) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, A
5 STAFFING PLAN OF A HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED
6 FACILITY SHALL INCORPORATE, AT A MINIMUM, THE FOLLOWING DIRECT CARE
7 REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIOS FOR EACH OF THE
8 CORRESPONDING UNITS:

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

10 (B) OPERATING ROOM: 1 TO 1.

11 (C) LABOR AND DELIVERY:

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

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

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

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

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

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

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

19 (E) EMERGENCY DEPARTMENT:

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

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

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

23 (F) STEPDOWN: 1 TO 3.

24 (G) TELEMETRY: 1 TO 3.

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

26 (I) PEDIATRICS: 1 TO 4.

27 (J) BEHAVIORAL HEALTH: 1 TO 4.

1 (K) REHABILITATION CARE: 1 TO 5.

2 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IN
3 COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
4 REQUIRED UNDER SUBSECTION (4), THE HOSPITAL, STATE-OWNED HOSPITAL,
5 OR STATE-OWNED FACILITY SHALL NOT INCLUDE A REGISTERED PROFESSIONAL
6 NURSE WHO IS NOT ASSIGNED TO PROVIDE DIRECT PATIENT CARE IN THAT
7 UNIT OR WHO IS NOT ORIENTED, QUALIFIED, AND COMPETENT TO PROVIDE
8 SAFE PATIENT CARE IN THAT UNIT. IN THE EVENT OF AN UNFORESEEN
9 EMERGENT SITUATION, A HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-
10 OWNED FACILITY MAY INCLUDE A STAFF MEMBER WHO IS A REGISTERED
11 PROFESSIONAL NURSE WHO IS NOT NORMALLY USED IN COMPUTING THE RATIO
12 REQUIREMENT BECAUSE THE STAFF MEMBER PERFORMS PRIMARILY
13 ADMINISTRATIVE FUNCTIONS IF THE STAFF MEMBER PROVIDES DIRECT
14 PATIENT CARE DURING THE EMERGENCY, BUT SHALL BE INCLUDED IN THE
15 COMPUTATION ONLY FOR AS LONG AS THE UNFORESEEN EMERGENT SITUATION
16 EXISTS. IN COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT
17 RATIO FOR THE OPERATING ROOM, THE HOSPITAL, STATE-OWNED HOSPITAL,
18 OR STATE-OWNED FACILITY SHALL NOT INCLUDE A CIRCULATING R.N. OR A
19 FIRST ASSISTANT R.N.

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

25 (7) THE HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED
26 FACILITY SHALL POST THE STAFFING PLAN OF THE HOSPITAL, STATE-OWNED
27 HOSPITAL, OR STATE-OWNED FACILITY FOR EACH UNIT IN A CONSPICUOUS

1 PLACE WITHIN THAT UNIT FOR PUBLIC REVIEW. UPON REQUEST, THE
2 HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL
3 PROVIDE COPIES OF THE STAFFING PLAN THAT ARE FILED WITH THE
4 DEPARTMENT TO THE PUBLIC. THE HOSPITAL, STATE-OWNED HOSPITAL, OR
5 STATE-OWNED FACILITY SHALL MAKE AVAILABLE FOR EACH MEMBER OF THE
6 NURSING STAFF A COPY OF THE STAFFING PLAN FOR HIS OR HER UNIT,
7 INCLUDING THE NUMBER OF DIRECT CARE REGISTERED PROFESSIONAL NURSES
8 REQUIRED FOR EACH SHIFT AND THE NAMES OF THOSE REGISTERED
9 PROFESSIONAL NURSES ASSIGNED AND PRESENT DURING EACH SHIFT. A
10 STAFFING PLAN DEVELOPED UNDER THIS SECTION AND THE MINIMUM STAFFING
11 RATIOS ESTABLISHED UNDER THIS SECTION ARE MINIMUMS AND SHALL BE
12 INCREASED AS NEEDED TO PROVIDE SAFE PATIENT CARE AS DETERMINED BY
13 THE ACUITY SYSTEM OR ASSESSMENT TOOL OF THE HOSPITAL, STATE-OWNED
14 HOSPITAL, OR STATE-OWNED FACILITY. A HOSPITAL, STATE-OWNED
15 HOSPITAL, OR STATE-OWNED FACILITY SHALL NOT USE MANDATORY OVERTIME
16 AS A STAFFING STRATEGY IN THE DELIVERY OF SAFE PATIENT CARE EXCEPT
17 IN THE EVENT OF AN UNFORESEEN EMERGENT SITUATION.

18 (8) A HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY
19 THAT FAILS TO SUBMIT AN ANNUAL STAFFING PLAN AS REQUIRED UNDER THIS
20 SECTION OR THAT DOES NOT MEET THE REQUIRED STAFFING PLAN
21 ESTABLISHED FOR EACH UNIT DURING EACH SHIFT, AS ADJUSTED IN
22 ACCORDANCE WITH THE ACUITY SYSTEM OR ASSESSMENT TOOL OF THE
23 HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY TO MAINTAIN
24 SAFE PATIENT CARE, IS IN VIOLATION OF THIS SECTION. EACH VIOLATION
25 SHALL BE REPORTED TO THE DEPARTMENT BY THE DESIGNATED
26 REPRESENTATIVE OF THE HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-
27 OWNED FACILITY, AND THE DEPARTMENT SHALL ASSESS AN ADMINISTRATIVE

1 FINE OF UP TO \$10,000.00 FOR EACH VIOLATION. EACH DAY THAT THE
2 STAFFING PLAN IS NOT FILED AND EACH SHIFT THAT DOES NOT SATISFY THE
3 MINIMUM STAFFING REQUIREMENTS FOR THAT UNIT IS A SEPARATE
4 VIOLATION. THE DEPARTMENT SHALL TAKE INTO ACCOUNT EACH VIOLATION OF
5 THIS SECTION WHEN MAKING LICENSURE DECISIONS.

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

11 (10) AS USED IN THIS SECTION:

12 (A) "ACUITY SYSTEM" MEANS A SYSTEM ESTABLISHED TO MEASURE
13 PATIENT NEEDS AND NURSING CARE REQUIREMENTS FOR EACH UNIT TO ENSURE
14 SAFE PATIENT CARE BASED UPON THE SEVERITY OF EACH PATIENT'S ILLNESS
15 AND NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE INTENSITY OF
16 NURSING INTERVENTIONS REQUIRED FOR EACH PATIENT, AND THE COMPLEXITY
17 OF THE CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT, AND
18 EVALUATE EACH PATIENT'S CARE PLAN.

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

20 (C) "MANDATORY OVERTIME" MEANS A MANDATED ASSIGNMENT FOR A
21 REGISTERED PROFESSIONAL NURSE TO WORK MORE THAN HIS OR HER
22 REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED
23 WORK SCHEDULE.

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

26 (E) "STAFFING PLAN" MEANS A WRITTEN PLAN THAT ESTABLISHES THE
27 MINIMUM SPECIFIC NUMBER OF REGISTERED PROFESSIONAL NURSES REQUIRED

1 TO BE PRESENT IN EACH UNIT FOR EACH SHIFT TO ENSURE SAFE PATIENT
2 CARE.

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