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HOUSE BILL 145

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Eleanor Chávez and Gail Chasey and Reena Szczepanski

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH CARE; REQUIRING THE DEPARTMENT OF HEALTH TO
PROMULGATE AND ENFORCE MINIMUM NURSING STAFF-TO-PATIENT RATIOS
IN LICENSED HOSPITALS; CREATING THE STAFFING ADVISORY
COMMITTEE; REQUIRING LICENSED HOSPITALS TO DEVELOP AND
IMPLEMENT POLICIES AND PROCEDURES; PROVIDING ADMINISTRATIVE
PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] HOSPITAL STAFFING RATIOS--DEFINITIONS.--As
used in Sections 1 through 5 of this 2024 act:

A. "critical care unit" means a unit that is
established to treat patients whose severity of medical
conditions require continuous monitoring and complex

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1 intervention by licensed nurses;

2 B. "hospital" means any public, private for-profit
3 or not-for-profit acute care, rehabilitation, limited services,
4 critical access, general or specific facility offering
5 in-patient services, nursing and overnight care seven days a
6 week on a twenty-four-hour basis that is capable of treating no
7 fewer than three patients for the purposes of diagnosing,
8 treating and providing medical, psychological or surgical care
9 for physical or mental illness, disease, injury, rehabilitative
10 conditions and pregnancies; and

11 C. "hospital unit" includes critical care units,
12 burn units, labor and delivery rooms, post-anesthesia service
13 areas, emergency departments, operating rooms, pediatric units,
14 step-down or intermediate care units, specialty care units,
15 telemetry units, general medical care units, subacute care
16 units and transitional inpatient care units."

17 SECTION 2. A new section of the Public Health Act is
18 enacted to read:

19 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--STAFFING
20 ADVISORY COMMITTEE--CREATION--PER DIEM AND MILEAGE--
21 ORGANIZATION.--

22 A. The "staffing advisory committee" is created for
23 the purpose of advising the department on matters related to
24 nurse staffing as provided in this 2024 act. The committee
25 consists of ten members that reflect a geographic

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1 representation of the state, appointed by the department as
2 follows:

3 (1) two members shall be private hospital
4 administrators or chief nursing officers;

5 (2) two members shall be public hospital
6 administrators or chief nursing officers;

7 (3) two members shall be non-managerial and
8 non-supervisory employees of private hospitals involved in
9 direct patient care;

10 (4) two members shall be non-managerial and
11 non-supervisory employees of public hospitals involved in
12 direct patient care; and

13 (5) two members shall represent labor
14 organizations representing employees in public or private
15 hospitals.

16 B. The members of the staffing advisory committee
17 shall serve for terms of four years and no more than three
18 terms. A member appointed by the committee to fill a vacancy
19 shall serve the remainder of the term.

20 C. Term-length conditions for appointments to the
21 staffing advisory committee are:

22 (1) for initial appointments, four members
23 shall serve for four-year terms, three members shall serve for
24 three-year terms, two members shall serve for two-year terms
25 and one member shall serve for a one-year term;

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1 (2) for regular appointments after the initial
2 appointments, four-year terms;

3 (3) for a vacancy appointment, the balance of
4 the term; and

5 (4) a committee member shall continue to serve
6 on the committee until a replacement is appointed.

7 D. The staffing advisory committee shall elect
8 annually a chairperson and other officers as the committee
9 determines to be necessary.

10 E. The staffing advisory committee shall meet at a
11 frequency necessary for the committee to advise and provide
12 data for the department to use in promulgating rules pursuant
13 to Section 3 of this 2024 act.

14 F. A majority of the staffing advisory committee
15 members currently serving constitutes a quorum.

16 G. Public members of the staffing advisory
17 committee are entitled to be reimbursed as nonsalaried public
18 officers pursuant to the Per Diem and Mileage Act. Members
19 shall receive no other compensation, perquisite or allowance
20 for their service on the committee.

21 H. The department may remove from office a member
22 of the staffing advisory committee for neglect of duties."

23 SECTION 3. A new section of the Public Health Act is
24 enacted to read:

25 "[NEW MATERIAL] HOSPITALS--LICENSED NURSE-TO-PATIENT

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1 RATIOS--DEPARTMENT--COMMITTEE--POWERS AND DUTIES.--

2 A. The department, with the advice of the staffing
3 advisory committee, shall have the power to:

4 (1) ensure that staffing ratios promulgated by
5 the department are maintained by a hospital;

6 (2) waive staffing ratios for rural general
7 acute care hospitals as needed to increase operational
8 efficiency; provided that doing so would not jeopardize the
9 health, safety and well-being of patients; and

10 (3) seek injunctive relief for violations of
11 this 2024 act.

12 B. By July 1, 2025, the department, with the advice
13 of the staffing advisory committee, shall hold hearings and
14 promulgate rules regarding:

15 (1) minimum, specific and numerical staffing
16 ratios for hospitals licensed by the department pursuant to the
17 Public Health Act, which shall include:

18 (a) licensed nurse-to-patient ratios by
19 licensed nurse classification and hospital unit; and

20 (b) unlicensed employee-to-patient
21 ratios by unlicensed classification and hospital unit for
22 unlicensed employees involved in direct patient care;

23 (2) rural general acute care hospital staffing
24 needs; provided that the ratios promulgated pursuant to
25 Paragraph (1) of this subsection may be adjusted to accommodate

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1 these needs;

2 (3) emergency department staffing, which shall
3 include the ratios provided pursuant to Paragraph (1) of this
4 subsection but shall distinguish between regularly scheduled
5 core staff licensed nurses and additional licensed nurses
6 required to treat critical care patients; and

7 (4) the documented patient classification
8 systems to be used by hospitals in determining nursing care
9 requirements, including the:

10 (a) severity of the illness to be
11 treated;

12 (b) need for specialized equipment and
13 technology;

14 (c) complexity of clinical judgment
15 needed to design, implement and evaluate the patient care plan
16 and the ability for self-care; and

17 (d) licensure of the personnel required
18 for care.

19 C. The rules promulgated by the department pursuant
20 to Subsection B of this section shall not replace existing
21 nurse-to-patient ratios and unlicensed employee-to-patient
22 ratios that may exist as provided by rule or existing state or
23 federal law as of the effective date of this 2024 act.

24 D. The department, in consultation with the
25 staffing advisory committee, shall:

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1 (1) review the rules adopted pursuant to
2 Subsection B of this section after five years following the
3 adoption of the rules; and

4 (2) report proposed rules to the legislature
5 prior to promulgation."

6 SECTION 4. A new section of the Public Health Act is
7 enacted to read:

8 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--HOSPITAL
9 POLICIES AND PROCEDURES--TRAINING.--

10 A. A hospital shall:

11 (1) employ staff to meet the staffing ratios
12 established by the department, which shall be the minimum
13 number of registered and licensed nurses and unlicensed
14 employees involved in direct patient care; and

15 (2) adopt written policies and procedures for
16 nursing staff and unlicensed employees involved in direct
17 patient care and temporary personnel, which shall require:

18 (a) training and orientation for
19 providing direct patient care;

20 (b) orientation for registered nurses
21 and unlicensed employees sufficient to provide competent care
22 to patients in a nursing unit or clinical area prior to
23 assigning the registered nurse or unlicensed employees to those
24 areas; provided that the registered nurse or unlicensed
25 employee also demonstrates competency in providing care in the

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1 assigned area; and

2 (c) temporary personnel orientation and
3 competency evaluation.

4 B. A hospital may employ additional staff in
5 accordance with a documented patient classification system.

6 C. A hospital shall not:

7 (1) assign unlicensed personnel to perform
8 nursing functions in lieu of a registered nurse; or

9 (2) allow unlicensed personnel under the
10 direct clinical supervision of a registered nurse to perform
11 functions that require a substantial amount of scientific
12 knowledge and technical skills, including:

13 (a) administration of medication;

14 (b) venipuncture or intravenous therapy;

15 (c) parenteral or tube feedings;

16 (d) invasive procedures, including
17 inserting nasogastric tubes, inserting catheters and tracheal
18 suctioning;

19 (e) assessment of the condition of a
20 patient;

21 (f) educating patients and their
22 families concerning the patient's health care problems,
23 including post-discharge care; and

24 (g) moderate complexity laboratory
25 tests.

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