F I S C A L I M P A C T R E P O R T

SPONSOR Egolf **ORIGINAL DATE** 02/09/12 **LAST UPDATED** **HB** 321

SHORT TITLE Nurse-to-Patient Ratio Standards **SB**

ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	**FY13**		
	$50.0	General Fund	Recurring

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
Department of Health (DOH)
Board of Nursing (BON)
New Mexico Hospital Association
New Mexico Organization of Nurse Executives

SUMMARY

Synopsis of Bill

House Bill 321 appropriates $50 thousand from the general fund to the Department of Health (DOH) to review statutory standards for nurse-to-patient ratios and to develop quarterly reports required by statute.

HB321 would require hospitals in New Mexico to adopt and implement standards for nurse-to-patient ratios based on patient acuity, as specified in the bill. The bill would require hospitals to submit the nurse-to-patient ratio for each department to the DOH. HB321 would require the

DOH to monitor all hospitals to determine if each hospital is conforming to the minimum standard ratios and to monitor patient outcomes under the ratios. The DOH would be directed to develop a quarterly report organized by county and by hospital. The report would list ratios for each hospital department and provide basic patient outcome data. The DOH would post the report quarterly on its website in a user-friendly, searchable format.

FISCAL IMPLICATIONS

The appropriation of $50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY13 shall revert to the general fund.

The Human Services Department (HSD) indicates HB321 could have a potential fiscal impact related to increasing nursing staffing costs at prospective payment system (PPS)-exempt rehabilitation or psychiatric units or PPS-exempt rehabilitation or psychiatric hospitals. These provider types may attempt to negotiate a higher payment rate from Medicaid contractors, which could possibly increase Medicaid capitation rates to these contractors.

The DOH's Division of Health Improvement (DHI) currently monitors hospitals only at the direction of CMS. The DHI is currently federally funded to provide only 1 percent to 5 percent validation surveys on hospitals. There are about 75 hospitals in New Mexico, but in FY11, the DHI surveyed 12 hospitals. HB321 would require the DHI to monitor all hospitals annually which is a significant increase over the current workload and no federal funding could be used to cover the costs of the monitoring. Therefore, the DHI would require additional funding to meet the provisions of HB321 including funding for 19 FTE and operating funds.

SIGNIFICANT ISSUES

The Department of Health indicates HB321 requires higher nurse-to-patient ratios than are currently required by the federal Centers for Medicare and Medicaid Services (CMS) for hospitals. Since New Mexico is currently experiencing a nursing shortage in many rural areas of the state, it could be difficult for rural hospitals to recruit and retain a sufficient number of nurses to meet the ratios listed. Additionally, with the nurse-to-patient ratios listed, hospitals could experience difficulty recruiting and retaining sufficient nurses to meet the required ratios specified in HB321.

HB321 would require DOH to monitor patient outcomes based on the ratios. However, neither the specific outcomes nor the clinical criteria used to evaluate the outcomes are listed. The outcomes would have to be specific to the patient condition and hospital unit/department. To monitor outcomes, the DHI would have to validating the accuracy of the hospital-submitted data through on-site reviews. It would be difficult to determine whether patient outcomes are based solely on the nurse-to-patient ratios and therefore, difficult for DOH to make changes to the ratios as required by HB321 in order to improve health care to patients. HB321 does not include provisions for enforcing the required nurse-to-patient ratios and accurate data reporting since no penalties for non-compliance were listed.

The New Mexico Board of Nursing (BON) indicates it does not support nurse-to-patient ratios which impose undue restrictions on the New Mexico Board of Nursing and on nurses in New Mexico. According to HB321, the BON indicates well babies would only receive 15 minutes of

nursing care within a two hours period of time. Having mostly rural hospitals that are 200 beds and less in New Mexico, most of the units receive a broad mix of patients, and do not have specialized units or specific ICUs. Given the nurse-to-patient ratio consideration of 1:6 for mixed units, this provision of SB321 could lead to a situation in which a rural hospital nurse is faced with a combination of trauma patients, pediatric patients, and even labor and delivery patients, and does not consider the acuity level of each patient and the ability of the nurse to safely provide care.

TECHNICAL ISSUES

The Human Services Department indicates what constitutes "basic patient outcome data" (page 4, line 5) is not defined.

The Board of Nursing suggests consideration of prohibiting placing nurses in situations where they lack competency; providing whistleblower protection; requiring that staffing information be made public; and allowing monetary fines to be levied on hospitals by the secretary of health should any violations occur.

The New Mexico Hospital Association questions if page 2, line 24, that reads "At minimum, the department shall require all hospitals to submit the nurse-to-patient ratio of each department as stated in Subsection A of this section at the hospital," is an annual average or some other timeframe?

OTHER SUBSTANTIVE ISSUES

The New Mexico Organization of Nurse Executives (NMONE) indicates it does not support regulated nurse patient staffing ratios to resolve staffing issues. Though ratios may be one of several approaches and tools an organization uses, determining appropriate staffing for any given unit and/or facility is complex and should take into account myriad variables, including shift-to-shift variables, patient turnover, and the experience, education, skills and competency of available staff.

The New Mexico Hospital Association indicates government regulated ratios would add significant cost to hospitals and would limit hospitals flexibility to meet changing needs of their patient population.

ALTERNATIVES

The Board of Nursing proposes that instead of imposing mandatory ratios which could result in increased overall cost of care, an alternative approach would be to provide market-based incentives to hospitals to optimize nursing staffing levels by unbundling nursing care from current room and board charges. In this way, nursing care would be billed based on intensity of nursing care provided. Revenue code data could be used to benchmark and evaluate inpatient nursing care performance.

The New Mexico Organization of Nurse Executives (NMONE) suggests the following alternatives:

1. Healthcare organizations are required to develop clearly articulated guidelines that address staffing practices. "The ratio of licensed nursing personnel to patients shall be determined by the

acuity of patients, the patient census, and complexity of care that must be provided (NMAC 7.7.2.27).” a. With collaboration between staff nurses and management, departments of nursing are strongly encouraged to develop a staffing framework and planning process that takes into account the number, skill mix and experience of nursing personnel, the acuity of patients and the complexity of their care, the availability of support staff, available technology, and the physical environment of a given nursing unit.

2. Shift Length: The literature strongly indicates that errors and near misses dramatically increase after 12 hours of work. NMONE recommends shifts not to extend beyond 12 hours.

3. Flexible Shift lengths: Though 12-hour shifts are the norm, they may not be the best option for all nurses, particularly for mature nurses. With 45% of New Mexico nurses over age 50, flexible shift length may offer retention options. Flexible scheduling options provide an opportunity for all nurses to balance the demands of their professional and personal obligations.

4. Rest Between Shifts: NMONE recommends a minimum of 8 hours of rest between shifts.

5. On Call: On call is to cover acute, emergent influxes in patient care needs. When called in to work, principles of staffing such as shift length, limitations rest between shifts, and total hours worked should apply.

6. Scheduled On Call: Some units, based on their patient population and type of service, have unpredictable and highly variable workloads (operating room and labor and delivery are examples of these types of units). Scheduled on call is used to manage the variable workload, and should be clearly articulated as the expectation of the job by the unit/department written guidelines. Scheduled on call may result in overtime, but would not be considered mandatory overtime. Principles of staffing such as shift length limitation, rest between shifts, and total hours worked should apply.

7. Total Hours Worked: NMONE encourages and supports the practice of limiting hours worked by the registered nurse to no more than 60 hours in seven days. Nurses who work at more than one facility have personal accountability to ensure they receive rest periods between shifts to ensure their ability to provide safe patient care.

8. States of Emergencies: Scheduling policies may not apply to states of emergency as declared by municipal, county, state, or federal officials. In these extreme situations, nurse leaders, in collaboration with the nursing staff, establish a plan that ensures safe, quality patient care as well as the safety of the nursing staff. Organization executives, managers, and staff must consider the total number of hours worked, the conditions of work, and the effects of fatigue and stress on human performance when making decisions and assignments.

9. Education: NMONE urges all nurses to review the New Mexico Nurse Practice Act. Evidence of patient safety and the impact of nurse fatigue/patient errors have been clearly demonstrated in the literature. All nurses are urged to monitor their own personal work schedule, including time management, as delineated in these guidelines, to ensure they are capable of providing safe patient care.

RAE/svb