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FISCAL IMPACT REPORT

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| SPONSOR <u>House Judiciary Committee</u> | LAST UPDATED <u>03/02/2025</u> |
| | ORIGINAL DATE <u>01/24/2025</u> |
| SHORT TITLE <u>Nursing Staff-To-Patient Ratios in Hospitals</u> | BILL NUMBER <u>CS/House Bill 72/HJCS</u> |
| | ANALYST <u>Rommel</u> |

REVENUE* (dollars in thousands)

| Type | FY25 | FY26 | FY27 | FY28 | FY29 | Recurring or Nonrecurring | Fund Affected |
|--------------------|------|------|--------------------------------|--------------------------------|--------------------------------|---------------------------|---------------|
| Penalty Assessment | \$0 | \$0 | Indeterminate but minimal gain | Indeterminate but minimal gain | Indeterminate but minimal gain | Recurring | General Fund |

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|------|-----------------|-----------------|-------------------|---------------------------|---------------|
| HCA | \$0 | Up to \$1,007.5 | Up to \$1,007.5 | Up to \$2,015.0 | Recurring | General Fund |
| Total | \$0 | Up to \$1,007.5 | Up to \$1,007.5 | Up to \$2,015.0 | Recurring | General Fund |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Related to an appropriation in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Board of Nursing (BON)
 Health Care Authority (HCA)
 Department of Health (DOH)
 UNM Health Sciences Center (UNM-HSC)

SUMMARY

Synopsis of HJC Substitute for House Bill 72

House Bill 72 (HB72) amends the Public Health Act to create a hospital staffing advisory committee to advise the Health Care Authority (HCA) in setting minimum staffing ratios for nursing units in the state's hospitals. HB72 requires hospitals to employ sufficient staff to meet the ratios and to adopt rules on the training of direct patient care personnel. Hospitals are

prohibited from assigning unlicensed personnel to perform duties that require a licensed nurse or require specialized knowledge, but licensed and registered nurses could work within their scope of practice. HCA is charged with enforcing the minimum staffing ratios, by court action if necessary. HCA may grant staffing ratio waivers for emergencies or other unforeseen circumstances and to rural or critical access hospitals if the hospital is able to document reasonable efforts to obtain adequate staff. HB72 further creates a framework for penalty assessments and, in the case of multiple violations of staffing ratio requirements, the submission of a corrective action plan by the hospital to the HCA.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns.

FISCAL IMPLICATIONS

HCA's Division of Health Improvement estimates that it will need 16.5 additional FTE at an annual cost of approximately \$1 million to support the implementation of HB72, including administrative staff, staff to survey hospitals for compliance with the act, and staff to intake complaints related to violations of the minimum staffing ratios. HCA derived this estimate based on an assumption of 200 complaints per year; costs may ultimately be lower than \$1 million if the number of actual complaints is lower.

HB72 empowers the HCA to levy civil penalties against hospitals it finds to have violated the minimum staffing standards. LFC staff estimate that HCA would not derive significant revenue from these penalties.

UNM-HSC expresses concern about the costs to its hospital system:

HB72 has the potential to significantly increase operating costs at University of New Mexico Hospital (UNMH) and its Sandoval Regional Medical Center (SRMC) campus. Analysis assumes that the ratios promulgated by the staffing advisory committee could require additional nurse staffing costing up to \$80.94 million and additional unlicensed staff staffing of up to \$17.84 million in FY27, for a total increase in staffing costs of \$98.78 million in FY27. The FY 27 fiscal impact assumes rules are effective July 1, 2026.

SIGNIFICANT ISSUES

Healthcare providers in New Mexico and throughout the United States are experiencing nursing shortages. The 2024 New Mexico Healthcare Workforce Committee Report indicates that with no redistribution of the current workforce, an additional 5,353 registered nurses would be needed for all New Mexico counties to meet the national benchmark (92 nurses per 10,000 population)¹.

High patient-staff ratios likely contribute to unsafe conditions for patients and burnout for nurses. The Board of Nursing (BON) documents considerable evidence in the medical/nursing literature that attests to high ratios leading to burnout. BON also points to one preliminary study indicating that better staffing ratios could result in cost savings for hospitals.²

¹ https://digitalrepository.unm.edu/nmhc_workforce/13/

² Lasater, K. B., Aiken, L. H., Sloane, D., French, R., M. B., Alexander, M., & McHugh, M. D. (2021). Patient

Hospitals may serve very different populations and thus need different staffing ratios to provide quality care. The federal Centers for Medicare and Medicaid Services (CMS) publishes requirements for participation in Medicare and Medicaid that dictate adequate staffing but do not dictate specific ratios.³ In accordance with CMS rules, the hospital director of nursing is responsible for nurse staffing levels and determining the type and number of nursing staff necessary to provide nursing care for all areas of the hospital. Determining appropriate staffing for any given unit or facility considers many variables including patient complexity and needs, the experience, education, qualifications, skills and competency of available staff, shift-to-shift variables, and patient turnover. The staffing committee created in HB72 is not in conflict with the CMS guidelines.

BON notes there may be unintended effects of prohibiting an unlicensed assistive person (UAP) from the scope of practice outlined in Section 4-C of the bill. BON points out that many of these procedures have, under direct supervision, been performed by UAPs in the past. They further note that “Non-traditional health profession students benefit from pipeline and pathway programs through stacked credential approaches to traditional college. This exclusion of UAP roles may interrupt or negatively impact that option.”

ADMINISTRATIVE IMPLICATIONS

The bill requires rule promulgation and establishment of the staffing ratio committee by October 1, 2026. HB72’s emergency clause would allow HCA to begin the work directed by the bill upon signature by the Governor.

HCA notes the following administrative implications:

Monitoring compliance with HB72 would be a new and additional workload. Currently, the Division of Health Improvement surveys hospitals either upon initial licensure of the hospital, when directed to do so by CMS, or when a state complaint is received. The Division of Health Improvement would need additional staff to monitor compliance with all requirements of HB72 and investigate complaints. Funds would be needed for salary and benefits, as well as rent, supplies, equipment, communication, travel, cars, copying, and information technology for new staff. Contract funds would also be needed to cover the costs of fair hearings for contested civil monetary penalties and other sanctions imposed by the Division of Health Improvement to enforce the provisions of the Act. Additional attorney time would be needed to participate in or respond to court filings for injunctive relief.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB72 is related to HB145 from the 2024 legislative session and HB236 from the 2023 legislative session. HB72 adds new material regarding mandatory training and orientation of staff and the authorization of penalties and removes provisions allowing for per-diem and mileage reimbursement for members of the staffing committee.

outcomes and cost saving associated with hospital safe nurse staffing legislation: an observational study. *BMJ Open*, 11:e052899. doi: 10.1136/bmjopen-2021-052899.

³ Code of Federal Regulations 42 CFR 482.23(b)

OTHER SUBSTANTIVE ISSUES

A growing body of research indicates that enhanced nurse-to-patient ratios can have a positive impact on quality of care and patient outcomes.⁴ California and Massachusetts require specific ratios within certain hospital units. Other states require public reporting of staffing ratios by hospitals. Other states have created nurse-driven staffing committees convened at the hospital level.

On April 22, 2024, CMS issued the Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting final rule. CMS is finalizing a total nurse staffing standard of 3.48 hours per resident day (HPRD), which must include at least 0.55 HPRD of direct registered nurse (RN) care and 2.45 HPRD of direct nurse aide care. Long-term care facilities may use any combination of nurse staff (RN, licensed practical nurse and licensed vocational nurse, or nurse aide) to account for the additional 0.48 HPRD needed to comply with the total nurse staffing standard.

HR/rl/SL2/sgs/rl/hg

⁴ Health Serv Res. 2021 Mar 15;56(5):885–907. doi: [10.1111/1475-6773.13647](https://doi.org/10.1111/1475-6773.13647)