

FIRST REGULAR SESSION

HOUSE BILL NO. 725

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LeVOTA (Sponsor) AND PACE (Co-sponsor).

1502L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 197.289 and 197.297, RSMo, and to enact in lieu thereof six new sections relating to patient safety, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 197.289 and 197.297, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 197.282, 197.283, 197.288, 197.289, 197.297, and 197.298, to read as follows:

197.282. As used in sections 197.282 to 197.298, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Acuity-based patient classification system", a standardized set of criteria that:

(a) Is a measurement system that is based on scientific data and compares the registered nurse staffing level in each patient care unit against actual patient nursing care requirements of each patient in order to predict registered nursing direct-care requirements based on severity of patient illness; and

(b) Determines the amount of registered nursing care required on a daily basis for each patient and shift in all nursing units and clinical areas;

(2) "Assessment tool", written documentation provided to the hospital by the advisory board to be used to provide the required information to the department as to the compliance of the staffing plan;

(3) "Assigned" or "assignment", the provision of care to a particular patient for which a direct-care registered nurse has responsibility within his or her scope of practice;

(4) "Board" or "state board", the state board of nursing;

(5) "Couplet", mother and baby;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (6) "Department", the department of health and senior services;
- 18 (7) "Direct-care registered nurse", a licensed registered nurse who has accepted
- 19 direct responsibility and accountability to carry out medical regimens, nursing, or other
- 20 bedside care for patients;
- 21 (8) "Facility", a hospital licensed in the state of Missouri, including a private or
- 22 state-owned and operated acute care hospital;
- 23 (9) "Nursing care", care that falls within the scope of practice of nursing defined
- 24 and recognized by the state board of nursing or within the recognized professional
- 25 standards of nursing, including but not limited to assessment, nursing diagnosis, planning,
- 26 intervention, evaluation, and patient advocacy;
- 27 (10) "Ratio", the actual number of patients to be assigned to each direct-care
- 28 registered nurse;
- 29 (11) "Staffing plan", acuity-based minimum nurse-to-patient ratio. Staffing plan
- 30 includes each unit, shift, and clinical area of the hospital where direct patient care
- 31 registered nurses function;
- 32 (12) "Triage", assessment of patients to determine priority of treatment.
- 197.283. 1. As a part of each hospital's quality assurance and quality improvement
- 2 program and within six months of the effective date of this section, every hospital licensed
- 3 in this state shall create a nursing advisory board to establish a standardized acuity-based
- 4 patient classification system for each individual direct-care unit in the hospital. The
- 5 department of health and senior services shall establish, monitor, and manage each
- 6 advisory board. The advisory board shall consist of eight members who are direct patient
- 7 care registered nurses and appointed by the department from a list of ten bedside nurses
- 8 furnished by the hospital. The advisory board shall elect a chair from among its members
- 9 and adopt bylaws for its proceedings. Members shall be appointed for staggered terms of
- 10 three years, except for persons appointed to fill vacancies who shall serve for the unexpired
- 11 term. No member shall serve more than two consecutive full terms.
- 12 2. The advisory board shall:
- 13 (1) Develop an acuity-based patient classification system within six months of the
- 14 effective date of this section;
- 15 (2) Reevaluate the numbers that comprise the nurse-to-patient ratio's every three
- 16 years, taking into consideration evolving technology or changing treatment protocols and
- 17 other relevant clinical factors;
- 18 (3) Develop an assessment tool for the hospital to use for documentation of the
- 19 staffing plan;

20 (4) Report to the department of health and senior services for noncompliance of the
21 staffing plan;

22 (5) Monitor adjustments of patient assignments with relationship to the patient
23 acuity system; and

24 (6) Be mindful that any registered nurse at any time may assess the accuracy of the
25 staffing plan as applied to a patient in his or her care.

26 3. Every hospital and every hospital's quality assurance department shall:

27 (1) Develop a process that ensures input as needed from the advisory board on
28 implementation, monitoring, and evaluation of the staffing plan;

29 (2) Maintain written documentation of the hospital's quality assurance and quality
30 improvement actions and upon request, provide such documentation to the department;

31 (3) As part of the hospital's quality assurance department, implement a hospital-
32 wide staffing plan and as a condition of licensing, annually submit a written certification
33 to the department that the staffing plan is being followed for delivery of patient care;

34 (4) Ensure that the hospital is staffed at all times with sufficient licensed personnel
35 on duty on each nursing unit and shift to meet the needs of each patient in accordance with
36 the staffing plan and accepted standards of quality patient care;

37 (5) Incorporate the assessment tool with the criteria to be used, developed by the
38 advisory board, to validate the compliance of the staffing plan;

39 (6) Plan for fluctuations in patient census, and demonstrate that prompt efforts
40 have been made to maintain the required staffing plan during an influx of patients and
41 that staffing plans are reestablished as soon as possible. Exceptions to the staffing plan
42 may be made in the event of a federal- or state-declared public emergency or natural
43 disaster;

44 (7) Not directly assign unlicensed personnel to perform or replace care that should
45 be delivered by a licensed registered nurse; and

46 (8) For purposes of compliance with the staffing plan, ensure that no registered
47 nurse is assigned to a unit or clinical area within the hospital unless the registered nurse
48 is competent to perform the skills and nursing care of such unit or clinical area.

197.288. 1. The department shall have the following powers and duties with respect
2 to sections 197.282 to 197.298:

3 (1) To promulgate rules necessary to carry out the purposes and provisions of
4 sections 197.282 to 197.298, including rules defining terms and monitoring of the
5 established standardized staffing plan. Such rules shall require:

6 (a) That an advisory committee in each hospital be responsible for the overall
7 resources to ensure the hospital is provided with a developed staffing plan; and

8 (b) That the hospital's quality assurance department be designated by each hospital
9 to be responsible for the overall quality assurance of nursing care as provided by the
10 hospital;

11 (2) To assure that the provisions of sections 197.282 to 197.298 and all rules
12 promulgated thereunder are enforced;

13 (3) To promulgate, within one year of the effective date of sections 197.282 to
14 197.298, rules providing for an accessible and confidential system to report any failure to
15 comply with the requirements of sections 197.282 to 197.298 and public access to
16 information regarding reports of inspections, results, deficiencies, and corrections under
17 sections 197.282 to 197.298;

18 (4) To promulgate rules that as a condition of licensing, each hospital shall submit
19 annually to the department of health and senior services a staffing plan together with a
20 written certification that the hospital is in compliance with the established acuity-based
21 nurse-to-patient ratios, which accomplishes the following:

22 (a) Meets the minimum direct-care registered nurse-to-patient ratio requirements
23 of sections 197.282 to 197.298;

24 (b) Employs the acuity-based patient classification system for addressing
25 fluctuations in patient acuity levels requiring increased registered nursing staffing levels
26 above the minimums set forth in sections 197.282 to 197.298;

27 (c) Provides for orientation of registered nursing staff appropriate for their clinical
28 practice area;

29 (d) Includes other unit or department duties such as discharges, transfers and
30 admissions, and administrative support roles that are expected to be performed by the
31 direct-care registered nurse.

32 2. (1) The department shall determine when there is an apparent pattern of failure
33 by a hospital to maintain or adhere to the staffing plan in accordance with sections 197.282
34 to 197.298 and any such hospital may be subject to an inquiry by the department to
35 determine the cause of the noncompliance. If after such inquiry, the department
36 determines that an official investigation is appropriate, the department shall conduct an
37 investigation. Upon completion of the investigation and a finding of noncompliance, the
38 department shall give formal written notification to the hospital as to the manner in which
39 the hospital failed to comply with the staffing plan.

40 (2) If a facility can reasonably demonstrate to the department, with sufficient
41 documentation as determined by financially distressed provider criteria promulgated by
42 the division of health care finance and policy, extreme financial hardship as a consequence

43 of meeting the staffing plans set forth in sections 197.282 to 197.298, the hospital may apply
 44 to the department for a waiver of such requirements for up to six months.

197.289. 1. On or before January 1, 2011, all hospitals [and ambulatory surgical
 2 centers] shall develop and implement a methodology which ensures adequate nurse staffing that
 3 will meet the needs of patients in accordance with the requirements of sections 197.282 to
 4 197.298. At a minimum, there shall be on duty at all times a sufficient number of licensed
 5 registered nurses to provide patient care requiring the judgment and skills of a licensed registered
 6 nurse [and to oversee the activities of all nursing personnel].

7 2. There shall be sufficient licensed and ancillary nursing personnel on duty on each
 8 nursing unit to meet the needs of each patient in accordance with accepted standards of quality
 9 patient care, which shall include the following minimum direct-care registered nurse-to-
 10 patient ratios:

11	(1) Intensive care unit	1:2
12	(a) Critically unstable	1:1
13	(b) ICU recovery	1:1
14	(2) Critical care unit	1:2
15	(3) Neo-natal intensive care	1:2
16	(a) New admit (first four hours)	1:1
17	(b) Critically Unstable	1:1
18	(4) Burn unit	1:2
19	(5) Emergency room, provided that triage	
20	registered nurses are not counted in	
21	ratios:	
22	(a) General	1:3
23	(b) Critical care	1:2
24	(c) Trauma	1:1
25	(6) Operating room/post anesthesia care	
26	unit	
27	(a) Under anesthesia	1:1
28	(b) Post anesthesia	1:2
29	(7) Step-down/telemetry/progressive care	1:3
30	(8) Telemetry	1:4
31	(9) Labor and delivery	
32	(a) Active labor	1:1
33	(b) Immediate postpartum, for two hours	1:1
34	(c) Postpartum, per four couplets	1:4

35	(10) Intermediate care nursery	1:3
36	(11) Well-baby nursery	1:5
37	(12) Pediatrics	1:4
38	(13) Psychiatry	1:5
39	(14) Medical/surgical	1:5
40	(15) Observation/outpatient	1:4
41	(16) Transitional care	1:5
42	(17) Rehabilitation unit	1:5
43	(18) Specialty care unit	1:4
44	(19) Case Management	1:20

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46 Any unit not otherwise listed above shall be considered a specialty care unit. No triage,
 47 radio, or other specialty nurse shall be counted for purposes of the minimum direct-care
 48 ratios.

49 3. The ratios required by this section shall constitute a minimum number of direct-
 50 care registered nurses. Additional direct-care registered nurses shall be added and the
 51 ratio adjusted to ensure direct-care registered nurse staffing in accordance with an
 52 approved acuity-based patient classification system. Nothing in this section shall be
 53 deemed to preclude any hospital from increasing the number of direct-care registered
 54 nurses in any unit above the minimum staffing ratios established in this section, nor shall
 55 the requirements set forth be deemed to supersede or replace any requirements otherwise
 56 mandated by law, regulation, or collective bargaining contract so long as the hospital meets
 57 the minimum requirements outlined.

58 4. Notwithstanding any other provision of sections 197.282 to 197.298, the
 59 department may promulgate rules that meet the specific needs of rural general acute care
 60 hospitals.

197.297. 1. The department of health and senior services may adopt rules necessary to
 2 implement the provisions of sections [197.287 to 197.297] **197.282 to 197.298**.

3 2. No rule or portion of a rule promulgated pursuant to the authority of sections [197.287
 4 to 197.297] **197.282 to 197.298** shall become effective unless it has been promulgated pursuant
 5 to the provisions of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in
 6 section 536.010, RSMo, that is created under the authority delegated in this section shall become
 7 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
 8 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
 9 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
 10 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently

11 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
12 after August 28, 2000, shall be invalid and void.

**197.298. 1. The department of health and senior services may suspend or revoke
2 any license issued under this chapter for failure of a hospital to comply with a department
3 order arising from a hospital's noncompliance with sections 197.282 to 197.298.**

**4 2. Any hospital that fails to design or adhere to a daily written nurse staffing plan
5 in accordance with section 197.288, or with any rule or regulations promulgated
6 hereunder, shall be subject to a fine of not more than twenty-five thousand dollars for each
7 such violation. Each day such violation occurs or continues shall be deemed a separate
8 offense. Such penalties shall be in addition to any other penalties that may be prescribed
9 by law. The department shall have jurisdiction to coordinate enforcement-related
10 activities.**

**11 3. Any person or entity that falsifies any document required to be filed with the
12 department under sections 197.282 to 197.298 is guilty of a class C misdemeanor.**

**13 4. The civil penalty in subsection 2 of this section may be assessed in any action
14 brought on behalf of the state or on behalf of any patient or resident aggrieved under the
15 provisions of sections 197.282 to 197.298 in any court of competent jurisdiction.**

**16 5. Fines relative to violations under this section shall be collected and placed in the
17 health initiatives fund established in section 191.831, RSMo. Moneys in the fund may be
18 used by hospital nursing advisory boards established under section 197.283 to provide
19 funding to any school of nursing in this state for the purpose of increasing faculty,
20 scholarships for student nurses, and for licensed practical nurses to bridge over to
21 registered nurses in order to increase the number of professional nurses employed in
22 hospitals in this state.**

**23 6. Each hospital found in violation of such plan shall prominently post its violation
24 notice within each unit in violation. Copies of the notice shall be posted by the hospital or
25 center immediately upon receipt and maintained for sixty consecutive days or until each
26 violation is rectified, in conspicuous places, including all places where notices to employees
27 are customarily posted. Reasonable steps shall be taken by the hospital or center to ensure
28 that the notices are not altered, defaced, or covered by any other material. The department
29 shall post such violation notices on its web site immediately after a finding of a violation.
30 The notice shall remain on the department's web site for sixty consecutive days or until
31 such violation is rectified.**

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