

# SENATE BILL No. 1190

May 11, 2004, Introduced by Senators PATTERSON, OLSHOVE, CHERRY, JACOBS, KUIPERS, BASHAM, SCHAUER, BRATER, PRUSI and CASSIS 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  
2 the amendatory act that added this section and annually  
3 thereafter, a hospital shall submit to the department a staffing  
4 plan as provided under this section. Each hospital is  
5 responsible for the development and implementation of a written  
6 staffing plan that provides sufficient, appropriately qualified  
7 nursing staff in each unit within the hospital in order to meet  
8 the individualized needs of its patients. Each hospital shall  
9 develop an assessment tool that evaluates the actual patient  
10 acuity levels and nursing care requirements for each unit during  
11 each shift. The hospital shall use the assessment tool to make

SENATE BILL No. 1190

1 adjustments to the staffing plan as needed to ensure safe patient  
2 care.

3       (2) To assist in the development of a staffing plan, the  
4 hospital shall establish a staffing committee for each unit and  
5 at least 1/2 of the members shall be registered professional  
6 nurses who are direct care providers in that unit. If the nurses  
7 in the hospital are under a collective bargaining agreement, the  
8 collective bargaining representative shall designate the nurses  
9 from within each unit to serve on the staffing committee for that  
10 unit. Participation on the staffing committee shall be  
11 considered a part of the nurse's regularly scheduled workweek. A  
12 hospital shall not retaliate against a nurse who participates on  
13 the staffing committee. The staffing committee shall establish a  
14 staffing strategy for that unit if the patients' needs within  
15 that unit for a shift exceeds the required minimum direct care  
16 registered professional nurse-to-patient ratios set forth under  
17 subsection (4).

18       (3) Within 2 years after the effective date of the amendatory  
19 act that added this section, each hospital shall have established  
20 and implemented an acuity system for addressing fluctuations in  
21 actual patient acuity levels and nursing care requirements  
22 requiring increased staffing levels above the minimums set forth  
23 under subsection (4). The assessment tool shall be used annually  
24 to review the accuracy of the acuity system established under  
25 this subsection.

26       (4) Within 3 years after the effective date of the amendatory  
27 act that added this section, a hospital's staffing plan shall

1 incorporate, at a minimum, the following direct care registered  
2 professional nurse-to-patient ratios for each of the  
3 corresponding units:

4 (a) Critical care - adult or pediatric: 1 to 1.

5 (b) Operating room: 1 to 1.

6 (c) Labor and delivery:

7 (i) During second and third stages of labor: 1 to 1.

8 (ii) During first stage of labor: 1 to 2.

9 (iii) Intermediate care newborn nursery: 1 to 3.

10 (iv) Noncritical antepartum patients: 1 to 4.

11 (v) Postpartum mother baby couplet: 1 to 3.

12 (vi) Postpartum or well-baby care: 1 to 6.

13 (d) Postanesthesia care unit: 1 to 2.

14 (e) Emergency department:

15 (i) Nontrauma or noncritical care: 1 to 3.

16 (ii) Trauma or critical care patient: 1 to 1.

17 (iii) One r.n. for triage.

18 (f) Stepdown: 1 to 3.

19 (g) Telemetry: 1 to 3.

20 (h) Medical/surgical: 1 to 4.

21 (i) Pediatrics: 1 to 4.

22 (j) Behavioral health: 1 to 4.

23 (k) Rehabilitation care: 1 to 5.

24 (5) Except as otherwise provided under this subsection, in  
25 computing the registered professional nurse-to-patient ratio  
26 required under subsection (4), the hospital shall not include a  
27 registered professional nurse who is not assigned to provide

1 direct patient care in that unit or who is not oriented,  
2 qualified, and competent to provide safe patient care in that  
3 unit. In the event of an unforeseen emergent situation, a  
4 hospital may include a staff member who is a registered  
5 professional nurse who is not normally used in computing the  
6 ratio requirement because the staff member performs primarily  
7 administrative functions if the staff member provides direct  
8 patient care during the emergency, but shall be included in the  
9 computation only for as long as the emergency exists. In  
10 computing the registered professional nurse-to-patient ratio for  
11 the operating room, the hospital shall not include a circulating  
12 r.n. or a first assistant r.n.

13 (6) The registered professional nurse-to-patient ratio  
14 established for each unit under subsection (4) does not limit,  
15 reduce, or otherwise affect the need for other licensed or  
16 unlicensed health care professionals, assistants, or support  
17 personnel necessary to provide safe patient care within the  
18 unit.

19 (7) The hospital shall post the hospital's staffing plan for  
20 each unit in a conspicuous place within that unit for public  
21 review. Upon request, the hospital shall provide copies of the  
22 staffing plan that are filed with the department to the public.  
23 The hospital shall make available for each member of the nursing  
24 staff a copy of the staffing plan for his or her unit, including  
25 the number of direct care registered professional nurses required  
26 for each shift and the names of those registered professional  
27 nurses assigned and present during each shift. A staffing plan

1 developed under this section and the minimum staffing ratios  
2 established under this section are minimums and shall be  
3 increased as needed to provide safe patient care as determined by  
4 the hospital's acuity system or assessment tool. A hospital  
5 shall not use mandatory overtime as a staffing strategy in the  
6 delivery of safe patient care except in the event of an  
7 unforeseen emergent situation.

8 (8) If a hospital fails to submit an annual staffing plan as  
9 required under this section or does not meet the required  
10 staffing plan established for each unit during each shift, as  
11 adjusted in accordance with the hospital's acuity system or  
12 assessment tool to maintain safe patient care, the hospital is in  
13 violation of this section. Each violation shall be reported to  
14 the department by the hospital's designated representative, and  
15 the department shall assess an administrative fine of up to  
16 \$10,000.00 for each violation. Each day that the staffing plan  
17 is not filed and each shift that does not satisfy the minimum  
18 staffing requirements for that unit is a separate violation. The  
19 department shall take into account each violation of this section  
20 when making licensure decisions.

21 (9) The fines assessed under this section shall be deposited  
22 into the nurse professional fund established under section 16315  
23 and expended only for the operation and administration of the  
24 Michigan nursing scholarship program established under the  
25 Michigan nursing scholarship act, 2002 PA 591, MCL 390.1181 to  
26 390.1189.

27 (10) As used in this section:

1 (a) "Acuity system" means a system established to measure  
2 patient needs and nursing care requirements for each unit to  
3 ensure safe patient care based upon the severity of each  
4 patient's illness and need for specialized equipment and  
5 technology, the intensity of nursing interventions required for  
6 each patient, and the complexity of the clinical nursing judgment  
7 needed to design, implement, and evaluate each patient's care  
8 plan.

9 (b) "Department" means the department of community health.

10 (c) "Mandatory overtime" means a mandated assignment for a  
11 registered professional nurse to work more than his or her  
12 regularly scheduled hours according to his or her predetermined  
13 work schedule.

14 (d) "Registered professional nurse" or "r.n." means that term  
15 as defined in section 17201.

16 (e) "Staffing plan" means a written plan that establishes the  
17 minimum specific number of registered professional nurses  
18 required to be present in each unit for each shift to ensure safe  
19 patient care.

20 (f) "Unforeseen emergent situation" means an unusual or  
21 unpredictable circumstance that increases the need for patient  
22 care including, but not limited to, an act of terrorism, a  
23 disease outbreak, adverse weather conditions, or a natural  
24 disaster.