Legislative Analysis

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HOSPITALS: REQUIRE TO DEVELOP STAFFING PLAN

House Bill 4339
Sponsor: Rep. Lisa Wojno
Committee: Labor

Complete to 6-25-07

A SUMMARY OF HOUSE BILL 4339 AS INTRODUCED 2-28-07

The bill would add a new section to the Public Health Code (333.21525) to require a hospital to do the following:

- Within a year of the bill's effective date, develop and implement a written staffing plan as specified in the bill.
- Submit the plan to the Department of Community Health.
- Develop an assessment tool that evaluates the actual acuity levels and nursing care requirements for each unit during each shift.
- Use the assessment tool to adjust the staffing plan as needed to ensure safe patient care.
- Within two years of the bill's effective date, have in place an acuity system for addressing fluctuations in actual patient acuity levels and nursing care requirements that require an increase in staffing levels above the minimum levels contained in the bill.
- Within three years of the bill's effective date, at a minimum, incorporate into the staffing plan the direct care RPN-to-patient ratios for the specified units listed in the bill.
- Post each unit staffing plan in a conspicuous place in the unit for public review.

The bill would also prohibit a hospital from using mandatory overtime as a staffing strategy except for unforeseen emergent situations; and subject a hospital that failed to submit an annual staffing plan or one that did not meet the bill's requirements to an administrative fine.

Staffing plan.

"Staffing plan" would mean a written plan that established the minimum specific number of registered professional nurses (RPN) required to be present in each unit for each shift to ensure safe patient care.

Each hospital would be responsible for the development and implementation of a written staffing plan that provided sufficient, appropriately qualified nursing staff in each of the hospital's units in order to meet the individualized needs of patients. The plan would have to be submitted to the Department of Community Health within one year of the bill's

effective date and annually thereafter. In addition, each hospital would have to develop an assessment tool that evaluated the actual patient acuity levels and nursing care requirements for each unit during each shift. The assessment tool would be used to make adjustments to the staffing plan as needed to ensure safe patient care.

A staffing committee would be formed for each hospital unit to assist in the development of the staffing plan; one-half of the membership would have to be RPNs who were direct care providers in that unit. A union representative would assign the nurses for those RPNs employed under a collective bargaining agreement. Participation on the staffing committee would be considered a part of an RPN's regularly scheduled work week. Hospitals would be prohibited from retaliating against an RPN who participated on a staffing committee. Each staffing committee would have to establish a staffing strategy for that unit for patients whose needs within that unit for a shift exceeded the required minimum direct care RPN-to-patient ratios set by the bill.

A staffing plan would have to be posted in a conspicuous place within each unit for public review. Copies of the plan filed with the DCH would have to be provided to the public upon request. A copy of the unit plan would also have to be made available for each member of the nursing staff and would have to include the number of direct care RPNs required for each shift and the names of those RPNs assigned and present during each shift.

Acuity system.

"Acuity system" would be defined as a system established to measure patient needs and nursing care requirements for each unit to ensure safe patient care based upon the severity of each patient's illness and need for specialized equipment and technology; the intensity of nursing interventions required for each patient; and the complexity of the clinical nursing judgment needed to design, implement, and evaluate each patient's care plan. Within two years of the bill's effective date, each hospital would have to establish and implement an acuity system for addressing fluctuations in actual patient acuity levels and nursing care requirements requiring increased staffing levels above the minimums set forth in the bill. The assessment tool described above would have to be used annually to review the accuracy of the acuity system established under this provision.

RPN-to-patient ratios.

Within three years of the bill's effective date, a hospital's staffing plan would have to incorporate, at a minimum, the direct care RPN-to-patient ratios specified in the bill for each corresponding unit. For example, a critical care unit would have to have a 1 to 1 ratio, a medical/surgical unit a 1 to 4 ratio, and a rehabilitation unit a 1 to 5 ratio. An RPN who was not assigned to provide direct patient care in a unit, or who was not oriented, qualified, and competent to provide safe patient care in that unit, could not be included in the computations for the unit's RPN-to-patient ratio. A circulating RN or a first assistant RN could not be included in the computations for the operating room. In

emergencies, the bill would allow inclusion of RPNs who primarily perform administrative functions under certain conditions.

The bill would specify that a staffing plan developed under the bill's requirements and the listed RPN-to-patient ratios are minimums and must be increased as needed to provide safe patient care as determined by the hospital's acuity system or assessment tool. Mandatory overtime could not be used as a staffing strategy in the delivery of safe patient care except in the event of an unforeseen emergent situation. "Mandatory overtime" would mean a mandated assignment for an RPN to work more than his or her regularly scheduled hours according to his or her predetermined work schedule. An "unforeseen emergent situation" would mean an unusual or unpredictable circumstance that increased the need for patient care and would include, but not be limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or a natural disaster.

The bill would also specify that the RPN-to-patient ratio established for each unit would not limit, reduce, or otherwise affect the need for other licensed or unlicensed health care professionals, assistants, or support personnel necessary to provide safe patient care within the unit.

Penalties.

Failure by a hospital to maintain its staff in accordance with the staffing plan and staffing standards established in the bill would constitute a violation. Each violation would have to be reported to the DCH by the hospital's designated representative. The department would have to assess an administrative fine of up to $10,000 for each violation. Each day that the staffing plan was not filed and each shift that did not satisfy the minimum staffing requirements for that unit would be a separate violation. The department would have to take into account each violation of these requirements when making licensure decisions.

Fines assessed under this provision would be deposited into the Nurse Professional Fund and expended only for the operation and administration of the Michigan Nursing Scholarship Program established under the Michigan Nursing Scholarship Act.

FISCAL IMPACT:

The collection and monitoring of staffing plans submitted by licensed hospitals will result in increased costs for the Department of Community Health (DCH). When similar legislation was proposed during the 2003-04 legislative session, DCH estimated that this added responsibility would cost approximately $250,000 annually.

If hospitals are required to increase their nursing staff to comply with provisions of House Bill 4339, Medicaid costs will also increase. Based on recent data, Medicaid pays over 10% of all hospital costs, which include staff-related costs. Furthermore, hospital facilities operated by the state and local units of government would also be confronted with additional costs associated with the creation of a staffing plan and development of

an assessment tool evaluating the actual patient acuity levels and nursing care requirements.

An indeterminate amount of revenue would be realized by the state from administrative fines collected from hospitals that violated staffing plan requirements. The proposed bill stipulates that the fine revenue be deposited in the Nurse Professional Fund and expended only for the operation and administration of Michigan Nursing Scholarship Program. The Nurse Professional Fund in this fiscal year includes the carry forward of $1,155,148.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.