

HOUSE BILL No. 4339

February 28, 2007, Introduced by Reps. Wojno, Miller and Bennett and referred to the Committee on Labor.

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 THE
2 AMENDATORY ACT THAT ADDED THIS SECTION AND ANNUALLY THEREAFTER, A
3 HOSPITAL SHALL SUBMIT TO THE DEPARTMENT A STAFFING PLAN AS PROVIDED
4 UNDER THIS SECTION. EACH HOSPITAL IS RESPONSIBLE FOR THE
5 DEVELOPMENT AND IMPLEMENTATION OF A WRITTEN STAFFING PLAN THAT
6 PROVIDES SUFFICIENT, APPROPRIATELY QUALIFIED NURSING STAFF IN EACH
7 UNIT WITHIN THE HOSPITAL IN ORDER TO MEET THE INDIVIDUALIZED NEEDS
8 OF ITS PATIENTS. EACH HOSPITAL SHALL DEVELOP AN ASSESSMENT TOOL
9 THAT EVALUATES THE ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE

1 REQUIREMENTS FOR EACH UNIT DURING EACH SHIFT. THE HOSPITAL SHALL
2 USE THE ASSESSMENT TOOL TO MAKE ADJUSTMENTS TO THE STAFFING PLAN AS
3 NEEDED TO ENSURE SAFE PATIENT CARE.

4 (2) TO ASSIST IN THE DEVELOPMENT OF A STAFFING PLAN, THE
5 HOSPITAL SHALL ESTABLISH A STAFFING COMMITTEE FOR EACH UNIT AND AT
6 LEAST 1/2 OF THE MEMBERS SHALL BE REGISTERED PROFESSIONAL NURSES
7 WHO ARE DIRECT CARE PROVIDERS IN THAT UNIT. IF THE NURSES IN THE
8 HOSPITAL ARE UNDER A COLLECTIVE BARGAINING AGREEMENT, THE
9 COLLECTIVE BARGAINING REPRESENTATIVE SHALL DESIGNATE THE NURSES
10 FROM WITHIN EACH UNIT TO SERVE ON THE STAFFING COMMITTEE FOR THAT
11 UNIT. PARTICIPATION ON THE STAFFING COMMITTEE SHALL BE CONSIDERED A
12 PART OF THE NURSE'S REGULARLY SCHEDULED WORKWEEK. A HOSPITAL SHALL
13 NOT RETALIATE AGAINST A NURSE WHO PARTICIPATES ON THE STAFFING
14 COMMITTEE. THE STAFFING COMMITTEE SHALL ESTABLISH A STAFFING
15 STRATEGY FOR THAT UNIT IF THE PATIENTS' NEEDS WITHIN THAT UNIT FOR
16 A SHIFT EXCEEDS THE REQUIRED MINIMUM DIRECT CARE REGISTERED
17 PROFESSIONAL NURSE-TO-PATIENT RATIOS SET FORTH UNDER SUBSECTION
18 (4).

19 (3) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
20 ACT THAT ADDED THIS SECTION, EACH HOSPITAL SHALL HAVE ESTABLISHED
21 AND IMPLEMENTED AN ACUITY SYSTEM FOR ADDRESSING FLUCTUATIONS IN
22 ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE REQUIREMENTS
23 REQUIRING INCREASED STAFFING LEVELS ABOVE THE MINIMUMS SET FORTH
24 UNDER SUBSECTION (4). THE ASSESSMENT TOOL SHALL BE USED ANNUALLY TO
25 REVIEW THE ACCURACY OF THE ACUITY SYSTEM ESTABLISHED UNDER THIS
26 SUBSECTION.

27 (4) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY

1 ACT THAT ADDED THIS SECTION, A HOSPITAL'S STAFFING PLAN SHALL
2 INCORPORATE, AT A MINIMUM, THE FOLLOWING DIRECT CARE REGISTERED
3 PROFESSIONAL NURSE-TO-PATIENT RATIOS FOR EACH OF THE CORRESPONDING
4 UNITS:

5 (A) CRITICAL CARE - ADULT OR PEDIATRIC: 1 TO 1.

6 (B) OPERATING ROOM: 1 TO 1.

7 (C) LABOR AND DELIVERY:

8 (i) DURING SECOND AND THIRD STAGES OF LABOR: 1 TO 1.

9 (ii) DURING FIRST STAGE OF LABOR: 1 TO 2.

10 (iii) INTERMEDIATE CARE NEWBORN NURSERY: 1 TO 3.

11 (iv) NONCRITICAL ANTEPARTUM PATIENTS: 1 TO 4.

12 (v) POSTPARTUM MOTHER BABY COUPLET: 1 TO 3.

13 (vi) POSTPARTUM OR WELL-BABY CARE: 1 TO 6.

14 (D) POSTANESTHESIA CARE UNIT: 1 TO 2.

15 (E) EMERGENCY DEPARTMENT:

16 (i) NONTRAUMA OR NONCRITICAL CARE: 1 TO 3.

17 (ii) TRAUMA OR CRITICAL CARE PATIENT: 1 TO 1.

18 (iii) ONE R.N. FOR TRIAGE.

19 (F) STEPDOWN: 1 TO 3.

20 (G) TELEMETRY: 1 TO 3.

21 (H) MEDICAL/SURGICAL: 1 TO 4.

22 (I) PEDIATRICS: 1 TO 4.

23 (J) BEHAVIORAL HEALTH: 1 TO 4.

24 (K) REHABILITATION CARE: 1 TO 5.

25 (5) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IN
26 COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
27 REQUIRED UNDER SUBSECTION (4), THE HOSPITAL SHALL NOT INCLUDE A

1 REGISTERED PROFESSIONAL NURSE WHO IS NOT ASSIGNED TO PROVIDE DIRECT
2 PATIENT CARE IN THAT UNIT OR WHO IS NOT ORIENTED, QUALIFIED, AND
3 COMPETENT TO PROVIDE SAFE PATIENT CARE IN THAT UNIT. IN THE EVENT
4 OF AN UNFORESEEN EMERGENT SITUATION, A HOSPITAL MAY INCLUDE A STAFF
5 MEMBER WHO IS A REGISTERED PROFESSIONAL NURSE WHO IS NOT NORMALLY
6 USED IN COMPUTING THE RATIO REQUIREMENT BECAUSE THE STAFF MEMBER
7 PERFORMS PRIMARILY ADMINISTRATIVE FUNCTIONS IF THE STAFF MEMBER
8 PROVIDES DIRECT PATIENT CARE DURING THE EMERGENCY, BUT SHALL BE
9 INCLUDED IN THE COMPUTATION ONLY FOR AS LONG AS THE EMERGENCY
10 EXISTS. IN COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT
11 RATIO FOR THE OPERATING ROOM, THE HOSPITAL SHALL NOT INCLUDE A
12 CIRCULATING 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 UNIT.

18 (7) THE HOSPITAL SHALL POST THE HOSPITAL'S STAFFING PLAN FOR
19 EACH UNIT IN A CONSPICUOUS PLACE WITHIN THAT UNIT FOR PUBLIC
20 REVIEW. UPON REQUEST, THE HOSPITAL SHALL PROVIDE COPIES OF THE
21 STAFFING PLAN THAT ARE FILED WITH THE DEPARTMENT TO THE PUBLIC. THE
22 HOSPITAL SHALL MAKE AVAILABLE FOR EACH MEMBER OF THE NURSING STAFF
23 A COPY OF THE STAFFING PLAN FOR HIS OR HER UNIT, INCLUDING THE
24 NUMBER OF DIRECT CARE REGISTERED PROFESSIONAL NURSES REQUIRED FOR
25 EACH SHIFT AND THE NAMES OF THOSE REGISTERED PROFESSIONAL NURSES
26 ASSIGNED AND PRESENT DURING EACH SHIFT. A STAFFING PLAN DEVELOPED
27 UNDER THIS SECTION AND THE MINIMUM STAFFING RATIOS ESTABLISHED

1 UNDER THIS SECTION ARE MINIMUMS AND SHALL BE INCREASED AS NEEDED TO
2 PROVIDE SAFE PATIENT CARE AS DETERMINED BY THE HOSPITAL'S ACUITY
3 SYSTEM OR ASSESSMENT TOOL. A HOSPITAL SHALL NOT USE MANDATORY
4 OVERTIME AS A STAFFING STRATEGY IN THE DELIVERY OF SAFE PATIENT
5 CARE EXCEPT IN THE EVENT OF AN UNFORESEEN EMERGENT SITUATION.

6 (8) A HOSPITAL THAT FAILS TO SUBMIT AN ANNUAL STAFFING PLAN AS
7 REQUIRED UNDER THIS SECTION OR THAT DOES NOT MEET THE REQUIRED
8 STAFFING PLAN ESTABLISHED FOR EACH UNIT DURING EACH SHIFT, AS
9 ADJUSTED IN ACCORDANCE WITH THE HOSPITAL'S ACUITY SYSTEM OR
10 ASSESSMENT TOOL TO MAINTAIN SAFE PATIENT CARE, IS IN VIOLATION OF
11 THIS SECTION. EACH VIOLATION SHALL BE REPORTED TO THE DEPARTMENT BY
12 THE HOSPITAL'S DESIGNATED REPRESENTATIVE, AND THE DEPARTMENT SHALL
13 ASSESS AN ADMINISTRATIVE FINE OF UP TO \$10,000.00 FOR EACH
14 VIOLATION. EACH DAY THAT THE STAFFING PLAN IS NOT FILED AND EACH
15 SHIFT THAT DOES NOT SATISFY THE MINIMUM STAFFING REQUIREMENTS FOR
16 THAT UNIT IS A SEPARATE VIOLATION. THE DEPARTMENT SHALL TAKE INTO
17 ACCOUNT EACH VIOLATION OF THIS SECTION WHEN MAKING LICENSURE
18 DECISIONS.

19 (9) THE FINES ASSESSED UNDER THIS SECTION SHALL BE DEPOSITED
20 INTO THE NURSE PROFESSIONAL FUND ESTABLISHED UNDER SECTION 16315
21 AND EXPENDED ONLY FOR THE OPERATION AND ADMINISTRATION OF THE
22 MICHIGAN NURSING SCHOLARSHIP PROGRAM ESTABLISHED UNDER THE MICHIGAN
23 NURSING SCHOLARSHIP ACT, 2002 PA 591, MCL 390.1181 TO 390.1189.

24 (10) AS USED IN THIS SECTION:

25 (A) "ACUITY SYSTEM" MEANS A SYSTEM ESTABLISHED TO MEASURE
26 PATIENT NEEDS AND NURSING CARE REQUIREMENTS FOR EACH UNIT TO ENSURE
27 SAFE PATIENT CARE BASED UPON THE SEVERITY OF EACH PATIENT'S ILLNESS

1 AND NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE INTENSITY OF
2 NURSING INTERVENTIONS REQUIRED FOR EACH PATIENT, AND THE COMPLEXITY
3 OF THE CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT, AND
4 EVALUATE EACH PATIENT'S CARE PLAN.

5 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY HEALTH.

6 (C) "MANDATORY OVERTIME" MEANS A MANDATED ASSIGNMENT FOR A
7 REGISTERED PROFESSIONAL NURSE TO WORK MORE THAN HIS OR HER
8 REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED
9 WORK SCHEDULE.

10 (D) "REGISTERED PROFESSIONAL NURSE" OR "R.N." MEANS THAT TERM
11 AS DEFINED IN SECTION 17201.

12 (E) "STAFFING PLAN" MEANS A WRITTEN PLAN THAT ESTABLISHES THE
13 MINIMUM SPECIFIC NUMBER OF REGISTERED PROFESSIONAL NURSES REQUIRED
14 TO BE PRESENT IN EACH UNIT FOR EACH SHIFT TO ENSURE SAFE PATIENT
15 CARE.

16 (F) "UNFORESEEN EMERGENT SITUATION" MEANS AN UNUSUAL OR
17 UNPREDICTABLE CIRCUMSTANCE THAT INCREASES THE NEED FOR PATIENT CARE
18 INCLUDING, BUT NOT LIMITED TO, AN ACT OF TERRORISM, A DISEASE
19 OUTBREAK, ADVERSE WEATHER CONDITIONS, OR A NATURAL DISASTER.