

# SENATE BILL NO. 334

May 11, 2023, Introduced by Senators SANTANA, GEISS, MOSS, POLEHANKI, IRWIN, BAYER, WOJNO, SHINK, CAVANAGH, CHERRY, SINGH, KLINEFELT, MCBROOM, CAMILLERI, CHANG and MCDONALD RIVET and referred to the Committee on Regulatory Affairs.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding sections 21525 and 21525a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **Sec. 21525. (1) A hospital shall provide sufficient and**  
2 **qualified registered professional nursing staff at all times to**  
3 **ensure patient safety.**

4           **(2) Except as otherwise provided in subsection (15), a**

1 hospital shall implement the minimum direct care registered  
2 professional nurse-to-patient ratios as provided under this section  
3 by not later than 1 year after the effective date of the amendatory  
4 act that added this section or by not later than 2 years after the  
5 effective date of the amendatory act that added this section if the  
6 hospital is located in a rural area.

7 (3) A hospital shall not assign more patients per direct care  
8 registered professional nurse than indicated by the following  
9 direct care registered professional nurse-to-patient ratios for  
10 each of the corresponding units:

11 (a) Intensive/critical care, including, but not limited to,  
12 coronary care, acute respiratory care, medical, burn, pediatric, or  
13 neonatal intensive care patients: 1 r.n. to 1 patient.

14 (b) Operating room: 1 r.n. to 1 patient, if not less than 1  
15 additional individual serves as a scrub assistant in the unit.

16 (c) Labor and delivery:

17 (i) Antepartum: 1 r.n. to 3 pregnant patients or, if continuous  
18 fetal monitoring is required, 1 r.n. to 2 pregnant patients.

19 (ii) Active labor: 1 r.n. to each birthing patient.

20 (iii) During birth: 1 r.n. to each birthing patient and 1 r.n.  
21 to each baby.

22 (iv) Immediate postpartum: 1 r.n. to each birthing-patient-baby  
23 couplet plus 1 r.n. to each additional baby.

24 (v) Unstable newborn: 1 r.n. to 1 newborn.

25 (vi) Intermediate care newborn: 1 r.n. to 2 newborns.

26 (vii) Postpartum/postsurgical birthing-patient-baby couplet: 1  
27 r.n. to 2 couplets.

28 (viii) Medical/obstetric complications in labor and delivery: 1  
29 r.n. to 1 patient.

1 (ix) Postpartum birthing patient or well-baby care: 1 r.n. to 4  
2 patients.

3 (x) Patient receiving conscious sedation: 1 r.n. to 1 patient.

4 (d) Postanesthesia care unit: 1 r.n. to 1 patient.

5 (e) Emergency department:

6 (i) Nontrauma or noncritical care: 1 r.n. to 3 patients, plus 1  
7 r.n. for triage duties.

8 (ii) Trauma or critical care: 1 r.n. to 1 patient, plus 1 r.n.  
9 for triage duties.

10 (f) Stepdown or intermediate intensive care unit: 1 r.n. to 3  
11 patients.

12 (g) Telemetry: 1 r.n. to 3 patients.

13 (h) Medical/surgical: 1 r.n. to 4 patients.

14 (i) Pediatrics: 1 r.n. to 3 patients.

15 (j) Behavioral health/psychiatric: 1 r.n. to 4 patients.

16 (k) Acute rehabilitation: 1 r.n. to 4 patients.

17 (4) If a unit that is not listed in subsection (3) provides a  
18 level of care to patients whose needs are similar to the needs of  
19 patients cared for in a unit that is listed in subsection (3), a  
20 hospital shall apply the minimum direct care registered  
21 professional nurse-to-patient ratio for the unit that is listed in  
22 subsection (3) to the unit that is not listed.

23 (5) The minimum direct care registered professional nurse-to-  
24 patient ratios required under this section must be in effect at all  
25 times, including during breaks, meals, and other routine, expected  
26 absences from a unit.

27 (6) A hospital shall not do any of the following:

28 (a) In computing a minimum direct care registered professional  
29 nurse-to-patient ratio required under this section, 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.

4 (b) Average the number of patients and the total number of  
5 direct care registered professional nurses assigned to patients in  
6 a unit during a single shift or over a period of time to meet a  
7 minimum direct care registered nurse-to-patient ratio required  
8 under this section.

9 (c) Except during a declared state of emergency, impose  
10 mandatory overtime to meet a minimum direct care registered  
11 professional nurse-to-patient ratio required under this section.

12 (7) At any time before or during a shift and for any reason, a  
13 hospital may increase the number of registered professional nurses  
14 above a minimum direct care registered professional nurse-to-  
15 patient ratio required under this section.

16 (8) The minimum direct care registered professional nurse-to-  
17 patient ratio established for each unit under this section does not  
18 limit, reduce, or otherwise affect the need for other licensed or  
19 unlicensed health care professionals, assistants, or support  
20 personnel necessary to provide safe patient care within the unit.

21 (9) A hospital shall post in each unit a notice in a form  
22 approved by the department. The notice must be located in a visible  
23 and conspicuous location that is accessible to hospital staff,  
24 patients, and the public. The notice must contain all of the  
25 following information:

26 (a) The requirements of this section.

27 (b) An explanation of the rights of direct care registered  
28 professional nurses, patients, and other individuals under this  
29 section.

1 (c) A statement that a direct care registered professional  
2 nurse, patient, or other individual may file a complaint with the  
3 department against a hospital that the direct care registered  
4 professional nurse, patient, or other individual believes has  
5 violated this section.

6 (d) Instructions on how to file a complaint with the  
7 department for a violation of this section.

8 (10) The department shall establish and maintain a toll-free  
9 telephone number to provide information regarding the minimum  
10 direct care registered professional nurse-to-patient ratios under  
11 this section and to receive complaints alleging violations of this  
12 section. A hospital shall provide the toll-free telephone number to  
13 each patient admitted to the hospital for inpatient care and inform  
14 each patient that the toll-free telephone number may be used to  
15 file a complaint alleging a violation of this section.

16 (11) A direct care registered professional nurse, a patient,  
17 or another individual may file a complaint with the department  
18 against a hospital that the direct care registered professional  
19 nurse, patient, or other individual believes has violated this  
20 section. The department shall investigate each complaint received  
21 in the manner provided for investigating written complaints under  
22 section 20176.

23 (12) A hospital that does not comply with a minimum direct  
24 care registered professional nurse-to-patient ratio required under  
25 this section is in violation of this section. Each shift that does  
26 not comply with a minimum direct care registered professional  
27 nurse-to-patient ratio for that shift is a separate violation. If  
28 the department determines that a hospital has not complied with the  
29 minimum direct care registered professional nurse-to-patient ratio

1 required for each unit during each shift under this section, the  
2 department shall require the hospital to establish a corrective  
3 action plan to prevent the recurrence of the violation. A hospital  
4 that violates this section is subject to an administrative fine of  
5 not less than \$10,000.00 or more than \$25,000.00 for each violation  
6 or, if the hospital has shown a pattern of violations, not less  
7 than \$25,000.00 or more than \$50,000.00.

8 (13) The department shall publish on its website the names of  
9 the hospitals on which an administrative fine has been imposed  
10 under subsection (12), the violation for which the fine was  
11 imposed, and any additional information that the department  
12 considers appropriate. The department shall consider each violation  
13 by a hospital under subsection (12) when making licensure  
14 decisions.

15 (14) The department shall promulgate rules to implement this  
16 section.

17 (15) If a collective bargaining agreement is in effect for  
18 employees of a hospital as of the effective date of the amendatory  
19 act that added this section and if that collective bargaining  
20 agreement prevents compliance with this section, then this section  
21 does not apply until after the expiration of that collective  
22 bargaining agreement.

23 (16) As used in this section:

24 (a) "Declared state of emergency" means an emergency that is  
25 declared by a person authorized by the federal government, a local  
26 government, or this state and that is related to a circumstance  
27 that is unpredictable or unavoidable, affects the delivery of  
28 medical care, and requires an immediate or exceptional level of  
29 emergency or other medical services at the hospital. Declared state

1 of emergency does not include an emergency that results from a  
2 labor dispute in the health care industry or consistent  
3 understaffing in the hospital.

4 (b) "Immediate postpartum" means within 2 hours after birth.

5 (c) "Mandatory overtime" means a mandated assignment for a  
6 direct care registered professional nurse to work more than the  
7 direct care registered professional nurse's regularly scheduled  
8 hours according to the direct care registered professional nurse's  
9 predetermined work schedule.

10 (d) "Medical/obstetric complications in labor and delivery"  
11 includes, but is not limited to, an epidural or a c-section.

12 (e) "Pattern of violations" means a finding by the department  
13 of 2 or more violations in 1 calendar year.

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

16 (g) "Rural area" means an area that is located outside of a  
17 metropolitan statistical area as defined by the United States  
18 Office of Management and Budget or that is located in a city,  
19 village, or township with a population of no more than 12,000 and  
20 in a county with a population of no more than 110,000, according to  
21 the most recent federal decennial census.

22 (h) "Scrub assistant" means an individual functioning in a  
23 role that is also known as a surgical technician, operating room  
24 technician, surgical tech, first assistant, scrub tech, or scrub. A  
25 scrub assistant may be a direct care registered professional nurse.

26 Sec. 21525a. (1) The nurse-to-patient ratio regulatory fund is  
27 created in the state treasury.

28 (2) The state treasurer shall credit the administrative fines  
29 collected under section 21525 to the nurse-to-patient ratio

1 regulatory fund. The state treasurer shall direct the investment of  
2 money in the nurse-to-patient ratio regulatory fund and credit  
3 interest and earnings from the investments to the nurse-to-patient  
4 ratio regulatory fund.

5 (3) The department is the administrator of the nurse-to-  
6 patient ratio regulatory fund for audits of the fund.

7 (4) The department shall expend money from the nurse-to-  
8 patient ratio regulatory fund on appropriation only for the  
9 administration of section 21525.

10 Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.