



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5033

Introduced 1/25/2010, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Nursing Care and Quality Improvement Act. Provides that each hospital shall implement a staffing plan that (i) provides adequate, appropriate, and quality delivery of health care services, (ii) protects patient safety, and (iii) is consistent with the requirements of the Act. Sets forth the minimum direct care registered nurse-to-patient ratios required in a unit of a hospital during each shift in that unit. Sets forth development and reevaluation requirements for the staffing plan. Prohibits a hospital from discharging, discriminating against, or retaliating against (i) a nurse in any manner with respect to any aspect of employment based on the nurse's refusal of a work assignment under certain conditions or (ii) a nurse or any individual, who, in good faith, reports a violation of the Act, initiates, cooperates, or otherwise participates in an investigation or proceeding under the Act, or informs or discusses with other individuals or with representatives of hospital employees a violation or suspected violation of the Act. Sets forth penalties for violation of the Act.

LRB096 16774 ASK 32074 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning healthcare.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Nursing Care and Quality Improvement Act.

6 Section 5. Findings. The Legislature finds and declares all  
7 of the following:

8 (1) The State of Illinois has a substantial interest in  
9 promoting quality care and improving the delivery of health  
10 care services to patients in health care facilities in the  
11 State.

12 (2) Recent changes in the health care delivery systems  
13 that have resulted in higher acuity levels among patients  
14 in health care facilities increase the need for improved  
15 quality measures in order to protect patient care and  
16 reduce the incidence of medical errors.

17 (3) Inadequate and poorly monitored registered nurse  
18 staffing practices that result in too few registered nurses  
19 providing direct care jeopardize the delivery of quality  
20 health care.

21 (4) Numerous studies have shown that patient outcomes  
22 are directly correlated to direct care registered nurse  
23 staffing levels.

1           (5) Requirements for direct care registered nurse  
2 staffing ratios will help address the registered nurse  
3 shortage in Illinois by aiding in recruitment of new  
4 registered nurses and improving retention of registered  
5 nurses who are considering leaving direct patient care  
6 because of the demands created by inadequate staffing.

7           (6) Establishing adequate minimum direct care  
8 registered nurse-to-patient ratios that take into account  
9 patient acuity measures will improve the delivery of  
10 quality health care services and patient safety.

11           (7) Establishing safe staffing standards for direct  
12 care registered nurses is a critical component of assuring  
13 that there is adequate hospital staffing at all levels to  
14 improve the delivery of quality care and protect patient  
15 safety.

16           Section 10. Definitions. In this Act:

17           "Acuity system" means an established measurement tool that  
18 does all of the following:

19           (1) predicts nursing care requirements for individual  
20 patients based on the severity of patient illness, the need  
21 for specialized equipment and technology, the intensity of  
22 nursing interventions required, and the complexity of  
23 clinical nursing judgment that is needed to design,  
24 implement, and evaluate the patient's nursing care plan;

25           (2) details the amount of nursing care needed, both in

1 the number of nurses and in the skill mix of nursing  
2 personnel required, on a daily basis for each patient in a  
3 nursing department or unit;

4 (3) takes into consideration the patient care services  
5 provided not only by registered nurses but also by direct  
6 care licensed practical nurses and other health care  
7 personnel; and

8 (4) is stated in terms that can be readily used and  
9 understood by nurses.

10 "Nurse" and "registered nurse" mean any person licensed as  
11 a registered nurse or a registered professional nurse under the  
12 Nurse Practice Act.

13 "Direct care registered nurse" means an individual who has  
14 been granted a license to practice as a registered nurse and  
15 who provides bedside care for one or more patients.

16 "Director" means the Director of Public Health.

17 "Department" means the Department of Public Health.

18 "Employment" includes the provision of services under a  
19 contract or other arrangement.

20 "Hospital" means an entity licensed under the Hospital  
21 Licensing Act.

22 "Staffing plan" means a staffing plan required under  
23 Section 15 of this Act.

24 Section 15. Staffing plan required.

25 (a) Each hospital shall implement a staffing plan that (i)

1 provides adequate, appropriate, and quality delivery of health  
2 care services, (ii) protects patient safety, and (iii) is  
3 consistent with the requirements of this Act.

4 (b) Subject to Section 20 of this Act, the requirements of  
5 subsection (a) shall take effect not later than one year after  
6 the effective date of this Act.

7 Section 20. Minimum direct care registered  
8 nurse-to-patient ratios.

9 (a) For the purposes of this Section:

10 "Assigned" means the registered nurse has responsibility  
11 for the provision of care to a particular patient within his or  
12 her scope of practice.

13 "Assist" means that licensed nurses may provide patient  
14 care beyond their patient assignments if the tasks performed  
15 are specific and time-limited.

16 "Declared state-of-emergency" means a state-of-emergency  
17 that has been declared by the federal government or the head of  
18 the appropriate State or local governmental agency having  
19 authority to declare that the State, county, municipality, or  
20 locality is in a state-of-emergency, but does not include  
21 consistent understaffing.

22 (b) A hospital's staffing plan shall provide that, during  
23 each shift within a unit of the hospital, a direct care  
24 registered nurse may be assigned to not more than the following  
25 number of patients in that unit:

1           (1) One patient in operating room units and trauma  
2 emergency units.

3           (2) 2 patients in critical care units, including  
4 emergency critical care and intensive care units, labor and  
5 delivery units, and post anesthesia units.

6           (3) 3 patients in ante partum units, emergency room  
7 units, pediatrics units, step-down units, and telemetry  
8 units.

9           (4) 4 patients in intermediate care nursery units,  
10 specialty care units, medical or surgical units, and acute  
11 care psychiatric units.

12           (5) 5 patients in rehabilitation units.

13           (6) 6 patients in postpartum (3 couplets) units and  
14 well-baby nursery units.

15           Registered nurse-to-patient ratios represent the maximum  
16 number of patients who may be assigned to one registered nurse  
17 at any one time. There shall be no averaging of the number of  
18 patients and the total number of registered nurses on the unit  
19 during any one shift nor over any period of time. The  
20 registered nurse-to-patient ratio must be maintained at all  
21 times throughout each shift. Only nurses providing direct  
22 patient care shall be included in the ratios.

23           Staffing for care not requiring a registered nurse is not  
24 included within these ratios. Additional staff in excess of  
25 these prescribed ratios, including non-licensed staff, shall  
26 be assigned in accordance with the hospital's documented

1 patient acuity system for determining nursing care  
2 requirements, considering factors that include the severity of  
3 the illness, the need for specialized equipment and technology,  
4 the complexity of clinical judgment needed to design,  
5 implement, and evaluate the patient care plan, the ability for  
6 self-care, and the licensure of the personnel required for  
7 care.

8 Nurse administrators, nurse supervisors, nurse managers,  
9 charge nurses, and other licensed nurses shall be included in  
10 the calculation of the licensed nurse-to-patient ratio only  
11 when those licensed nurses are engaged in providing direct  
12 patient care. When a nurse administrator, nurse supervisor,  
13 nurse manager, charge nurse, or other licensed nurse is engaged  
14 in activities other than direct patient care, that nurse shall  
15 not be included in the ratio. Nurse administrators, nurse  
16 supervisors, nurse managers, and charge nurses who have  
17 demonstrated current competence to the hospital in providing  
18 care on a particular unit may relieve nurses during breaks,  
19 meals, and other routine, expected absences from the unit.

20 (c) Nothing in this Section shall prohibit a nurse from  
21 assisting with specific tasks within the scope of his or her  
22 practice for a patient assigned to another nurse.

23 (d) Within one year after the effective date of this Act,  
24 the Department shall adopt rules providing specific guidance on  
25 the implementation of the minimum direct care registered  
26 nurse-to-patient ratios. The Department shall adopt these

1 rules in accordance with the Department's licensing and  
2 certification rules and other professional and vocational  
3 rules under Illinois law.

4 (e) The Director may apply the minimum direct care  
5 registered nurse-to-patient ratios established in subsection  
6 (b) of this Section to a type of hospital unit not referred to  
7 in that subsection (b) if that other unit performs a function  
8 similar to the function performed by a unit referred to in  
9 subsection (b).

10 (f) If necessary to protect patient safety, the Director  
11 may prescribe regulations that (i) increase minimum direct care  
12 registered nurse-to-patient ratios under this Section to  
13 further limit the number of patients that may be assigned to  
14 each direct care nurse or (ii) add minimum direct care  
15 registered nurse-to-patient ratios for units not referred to in  
16 subsections (b) and (d). These regulations shall be prescribed  
17 after consultation with affected hospitals and registered  
18 nurses.

19 (g) The requirements established under this Section shall  
20 not apply during a declared state-of-emergency, if a hospital  
21 is requested or expected to provide an exceptional level of  
22 emergency or other medical services.

23 (h) Nursing personnel from temporary nursing agencies  
24 shall not be responsible for a patient care unit without having  
25 demonstrated clinical and supervisory competence.

26 (i) The requirements this Section shall take effect as soon



1 as practicable, as determined by the Director, but not later  
2 than 2 years after the effective date of this Act.

3 Section 25. Development and reevaluation of staffing plan.

4 (a) In developing a staffing plan, a hospital shall provide  
5 for direct care registered nurse-to-patient ratios above the  
6 minimum direct care registered nurse-to-patient ratios  
7 required under Section 20 of this Act, if appropriate, based  
8 upon consideration of all of the following factors:

9 (1) the number of patients and acuity level of patients  
10 as determined by the application of an acuity system, on a  
11 shift-by-shift basis;

12 (2) the anticipated admissions, discharges, and  
13 transfers of patients during each shift that impacts direct  
14 patient care;

15 (3) specialized experience required of direct care  
16 registered nurses on a particular unit;

17 (4) staffing levels and services provided by other  
18 health care personnel in meeting direct patient care needs  
19 not required by a direct care registered nurse;

20 (5) the level of technology available that affects the  
21 delivery of direct patient care;

22 (6) the level of familiarity with hospital practices,  
23 policies, and procedures by temporary agency direct care  
24 registered nurses used during a shift; and

25 (7) obstacles to efficiency in the delivery of patient

1 care presented by physical layout.

2 (b) A hospital shall specify the system used to document  
3 actual staffing in each unit for each shift.

4 (c) A hospital shall annually evaluate (i) its staffing  
5 plan in each unit in relation to actual patient care  
6 requirements and (ii) the accuracy of its acuity system and  
7 update its staffing plan and acuity system to the extent  
8 appropriate based on the evaluation.

9 (d) A staffing plan of a hospital shall be developed and  
10 subsequent reevaluations shall be conducted under this Section  
11 on the basis of input from direct care registered nurses at the  
12 hospital or, if the nurses are represented through collective  
13 bargaining, from the applicable recognized or certified  
14 collective bargaining representative of the nurses.

15 (e) A hospital shall submit to the Director its staffing  
16 plan and any annual updates under subsection (c).

17 (f) Nothing in this Act shall be construed to permit  
18 conduct prohibited under the National Labor Relations Act or  
19 under the Federal Labor Relations Act of 1978.

20 Section 30. Protection of nurses and other individuals.

21 (a) A nurse may refuse to accept an assignment as a nurse  
22 in a hospital if either of the following conditions apply:

23 (1) the assignment would violate the provisions of  
24 Sections 15, 20, or 25; or

25 (2) the nurse is not prepared by education, training,

1           or experience to fulfill the assignment without  
2           compromising the safety of any patient or jeopardizing his  
3           or her license.

4           The requirements of this subsection (a) shall apply to  
5           refusals occurring on or after the effective date of this Act,  
6           except that the requirements of paragraph (2) of this  
7           subsection (a) shall not apply to refusals in any hospital  
8           before the requirements of Section 15 of this Act apply to that  
9           hospital.

10          (b) No hospital shall discharge, discriminate against, or  
11          retaliate against a nurse in any manner with respect to any  
12          aspect of employment, including discharge, promotion,  
13          compensation, or terms, conditions, or privileges of  
14          employment, based on the nurse's refusal of a work assignment  
15          under subsection (a). The requirements of this subsection (b)  
16          shall apply to refusals occurring on or after the effective  
17          date of this Act.

18          (c) No hospital shall file a complaint or a report against  
19          a nurse with the appropriate State professional disciplinary  
20          agency because of the nurse's refusal of a work assignment  
21          under subsection (a). The requirements of this subsection (c)  
22          shall apply to refusals occurring on or after the effective  
23          date of this Act.

24          (d) Any nurse who has been discharged, discriminated  
25          against, or retaliated against or against whom a complaint has  
26          been filed in violation of this Section may bring a cause of

1 action in a State court. A nurse who prevails in the cause of  
2 action shall be entitled to one or more of the following:

3 (1) Reinstatement.

4 (2) Reimbursement of lost wages, compensation, and  
5 benefits.

6 (3) Attorneys' fees.

7 (4) Court costs.

8 (5) Other damages.

9 The requirements of this subsection (d) shall apply to  
10 refusals occurring on or after the effective date of this Act.

11 (e) A nurse or other individual may file a complaint with  
12 the Director against a hospital that violates any provision of  
13 this Act. For any complaint filed, the Director shall do all of  
14 the following:

15 (1) receive and investigate the complaint;

16 (2) determine whether a violation of this Act as  
17 alleged in the complaint has occurred; and

18 (3) if such a violation has occurred, issue an order  
19 that the complaining nurse or individual shall not suffer  
20 any retaliation under subsections (b), (c) or (f).

21 (f) A hospital shall not discriminate or retaliate in any  
22 manner with respect to any aspect of employment, including  
23 hiring, discharge, promotion, compensation, or terms,  
24 conditions, or privileges of employment, against any  
25 individual who in good faith, individually or in conjunction  
26 with another person or persons, does any of the following:

1           (1) reports a violation or a suspected violation of  
2           this Act to the Director, a public regulatory agency, a  
3           private accreditation body, or the management personnel of  
4           the hospital;

5           (2) initiates, cooperates, or otherwise participates  
6           in an investigation or proceeding brought by the Director,  
7           a public regulatory agency, or a private accreditation body  
8           concerning matters covered by this Act; or

9           (3) informs or discusses with other individuals or with  
10          representatives of hospital employees a violation or  
11          suspected violation of this Act.

12          For the purposes of this subsection (f), an individual  
13          shall be deemed to be acting in good faith if the individual  
14          reasonably believes that the information reported or disclosed  
15          is true and that a violation of this Act has occurred or may  
16          occur.

17          The requirements of this subsection (f) shall apply to  
18          those actions set forth in paragraphs (1) and (3) of this  
19          subsection (f) and occurring on or after the effective date  
20          this Act. The requirements of this subsection (f) shall apply  
21          to initiation, cooperation, or participation in an  
22          investigation or proceeding on or after the effective date of  
23          this Act.

24          (g) Beginning 18 months after the effective date of this  
25          Act, a hospital shall post in an appropriate location in each  
26          unit a conspicuous notice in a form specified by the Director

1 that shall do each of the following:

2 (1) explain the rights of nurses and other individuals  
3 under this Section; and

4 (2) include a statement that a nurse or other  
5 individual may file a complaint with the Director against a  
6 hospital that violates the provisions of this Act and  
7 provide instructions on how to file this complaint.

8 Section 35. Penalties. The Director may impose civil  
9 penalties or suspend, revoke, or place conditional provisions  
10 upon a license of a hospital for a violation of any provision  
11 of this Act. The Department shall adopt by rule a schedule  
12 establishing the amount of civil penalty that may be imposed  
13 for any violation of Sections 15, 20, 25, or 30 of this Act  
14 when there is a reasonable belief that safe patient care has  
15 been or may be negatively impacted. Each violation of a  
16 staffing plan shall be considered a separate violation.

17 In addition to any other monies set aside and appropriated  
18 to the Department for nursing scholarships awarded pursuant to  
19 the Nursing Education Scholarship Law, revenues collected from  
20 fines incurred under this Act shall be allocated to the  
21 Department for that same purpose.