

HOUSE BILL No. 5426

February 21, 2012, Introduced by Reps. Switalski, Tlaib, Brown, Hovey-Wright and Meadows 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 THE
2 AMENDATORY ACT THAT ADDED THIS SECTION AND ANNUALLY AFTER THAT, A
3 HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL
4 SUBMIT TO THE DEPARTMENT A STAFFING PLAN AS PROVIDED UNDER THIS
5 SECTION. EACH HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED
6 FACILITY IS RESPONSIBLE FOR THE DEVELOPMENT AND IMPLEMENTATION OF A
7 WRITTEN STAFFING PLAN THAT PROVIDES SUFFICIENT, APPROPRIATELY
8 QUALIFIED NURSING STAFF IN EACH UNIT WITHIN THE HOSPITAL, STATE-
9 OWNED HOSPITAL, OR STATE-OWNED FACILITY IN ORDER TO MEET THE
10 INDIVIDUALIZED NEEDS OF ITS PATIENTS. EACH HOSPITAL, STATE-OWNED

1 HOSPITAL, OR STATE-OWNED FACILITY SHALL DEVELOP AN ASSESSMENT TOOL
2 THAT EVALUATES THE ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE
3 REQUIREMENTS FOR EACH UNIT DURING EACH SHIFT. THE HOSPITAL, STATE-
4 OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL USE THE ASSESSMENT
5 TOOL TO MAKE ADJUSTMENTS TO THE STAFFING PLAN AS NEEDED TO ENSURE
6 SAFE PATIENT CARE.

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

24 (3) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
25 ACT THAT ADDED THIS SECTION, EACH HOSPITAL, STATE-OWNED HOSPITAL,
26 OR STATE-OWNED FACILITY SHALL HAVE ESTABLISHED AND IMPLEMENTED AN
27 ACUITY SYSTEM FOR ADDRESSING FLUCTUATIONS IN ACTUAL PATIENT ACUITY

1 LEVELS AND NURSING CARE REQUIREMENTS REQUIRING INCREASED STAFFING
2 LEVELS ABOVE THE MINIMUMS SET FORTH UNDER SUBSECTION (4). THE
3 ASSESSMENT TOOL SHALL BE USED ANNUALLY TO REVIEW THE ACCURACY OF
4 THE ACUITY SYSTEM ESTABLISHED UNDER THIS SUBSECTION.

5 (4) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
6 ACT THAT ADDED THIS SECTION, A STAFFING PLAN OF A HOSPITAL, STATE-
7 OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL INCORPORATE, AT A
8 MINIMUM, THE FOLLOWING DIRECT CARE REGISTERED PROFESSIONAL NURSE-
9 TO-PATIENT RATIOS FOR EACH OF THE CORRESPONDING UNITS:

- 10 (A) CRITICAL CARE - ADULT OR PEDIATRIC: 1 TO 1.
11 (B) OPERATING ROOM: 1 TO 1.
12 (C) LABOR AND DELIVERY:
13 (i) DURING SECOND AND THIRD STAGES OF LABOR: 1 TO 1.
14 (ii) DURING FIRST STAGE OF LABOR: 1 TO 2.
15 (iii) INTERMEDIATE CARE NEWBORN NURSERY: 1 TO 3.
16 (iv) NONCRITICAL ANTEPARTUM PATIENTS: 1 TO 4.
17 (v) POSTPARTUM MOTHER BABY COUPLET: 1 TO 3.
18 (vi) POSTPARTUM OR WELL-BABY CARE: 1 TO 6.
19 (D) POSTANESTHESIA CARE UNIT: 1 TO 2.
20 (E) EMERGENCY DEPARTMENT:
21 (i) NONTRAUMA OR NONCRITICAL CARE: 1 TO 3.
22 (ii) TRAUMA OR CRITICAL CARE PATIENT: 1 TO 1.
23 (iii) ONE R.N. FOR TRIAGE.
24 (F) STEPDOWN: 1 TO 3.
25 (G) TELEMETRY: 1 TO 3.
26 (H) MEDICAL/SURGICAL: 1 TO 4.
27 (I) PEDIATRICS: 1 TO 4.

1 (J) BEHAVIORAL HEALTH: 1 TO 4.

2 (K) REHABILITATION CARE: 1 TO 5.

3 (5) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IN
4 COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
5 REQUIRED UNDER SUBSECTION (4), THE HOSPITAL, STATE-OWNED HOSPITAL,
6 OR STATE-OWNED FACILITY SHALL NOT INCLUDE A REGISTERED PROFESSIONAL
7 NURSE WHO IS NOT ASSIGNED TO PROVIDE DIRECT PATIENT CARE IN THAT
8 UNIT OR WHO IS NOT ORIENTED, QUALIFIED, AND COMPETENT TO PROVIDE
9 SAFE PATIENT CARE IN THAT UNIT. IN THE EVENT OF AN UNFORESEEN
10 EMERGENT SITUATION, A HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-
11 OWNED FACILITY MAY INCLUDE A STAFF MEMBER WHO IS A REGISTERED
12 PROFESSIONAL NURSE WHO IS NOT NORMALLY USED IN COMPUTING THE RATIO
13 REQUIREMENT BECAUSE THE STAFF MEMBER PERFORMS PRIMARILY
14 ADMINISTRATIVE FUNCTIONS IF THE STAFF MEMBER PROVIDES DIRECT
15 PATIENT CARE DURING THE EMERGENCY, BUT SHALL BE INCLUDED IN THE
16 COMPUTATION ONLY FOR AS LONG AS THE EMERGENCY EXISTS. IN COMPUTING
17 THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO FOR THE
18 OPERATING ROOM, THE HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED
19 FACILITY SHALL NOT INCLUDE A CIRCULATING R.N. OR A FIRST ASSISTANT
20 R.N.

21 (6) THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
22 ESTABLISHED FOR EACH UNIT UNDER SUBSECTION (4) DOES NOT LIMIT,
23 REDUCE, OR OTHERWISE AFFECT THE NEED FOR OTHER LICENSED OR
24 UNLICENSED HEALTH CARE PROFESSIONALS, ASSISTANTS, OR SUPPORT
25 PERSONNEL NECESSARY TO PROVIDE SAFE PATIENT CARE WITHIN THE UNIT.

26 (7) THE HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED
27 FACILITY SHALL POST THE STAFFING PLAN OF THE HOSPITAL, STATE-OWNED

1 HOSPITAL, OR STATE-OWNED FACILITY FOR EACH UNIT IN A CONSPICUOUS
2 PLACE WITHIN THAT UNIT FOR PUBLIC REVIEW. UPON REQUEST, THE
3 HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY SHALL
4 PROVIDE COPIES OF THE STAFFING PLAN THAT ARE FILED WITH THE
5 DEPARTMENT TO THE PUBLIC. THE HOSPITAL, STATE-OWNED HOSPITAL, OR
6 STATE-OWNED FACILITY SHALL MAKE AVAILABLE FOR EACH MEMBER OF THE
7 NURSING STAFF A COPY OF THE STAFFING PLAN FOR HIS OR HER UNIT,
8 INCLUDING THE NUMBER OF DIRECT CARE REGISTERED PROFESSIONAL NURSES
9 REQUIRED FOR EACH SHIFT AND THE NAMES OF THOSE REGISTERED
10 PROFESSIONAL NURSES ASSIGNED AND PRESENT DURING EACH SHIFT. A
11 STAFFING PLAN DEVELOPED UNDER THIS SECTION AND THE MINIMUM STAFFING
12 RATIOS ESTABLISHED UNDER THIS SECTION ARE MINIMUMS AND SHALL BE
13 INCREASED AS NEEDED TO PROVIDE SAFE PATIENT CARE AS DETERMINED BY
14 THE ACUITY SYSTEM OR ASSESSMENT TOOL OF THE HOSPITAL, STATE-OWNED
15 HOSPITAL, OR STATE-OWNED FACILITY. A HOSPITAL, STATE-OWNED
16 HOSPITAL, OR STATE-OWNED FACILITY SHALL NOT USE MANDATORY OVERTIME
17 AS A STAFFING STRATEGY IN THE DELIVERY OF SAFE PATIENT CARE EXCEPT
18 IN THE EVENT OF AN UNFORESEEN EMERGENT SITUATION.

19 (8) A HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY
20 THAT FAILS TO SUBMIT AN ANNUAL STAFFING PLAN AS REQUIRED UNDER THIS
21 SECTION OR THAT DOES NOT MEET THE REQUIRED STAFFING PLAN
22 ESTABLISHED FOR EACH UNIT DURING EACH SHIFT, AS ADJUSTED IN
23 ACCORDANCE WITH THE ACUITY SYSTEM OR ASSESSMENT TOOL OF THE
24 HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-OWNED FACILITY TO MAINTAIN
25 SAFE PATIENT CARE, IS IN VIOLATION OF THIS SECTION. EACH VIOLATION
26 SHALL BE REPORTED TO THE DEPARTMENT BY THE DESIGNATED
27 REPRESENTATIVE OF THE HOSPITAL, STATE-OWNED HOSPITAL, OR STATE-

1 OWNED FACILITY, AND THE DEPARTMENT SHALL ASSESS AN ADMINISTRATIVE
2 FINE OF UP TO \$10,000.00 FOR EACH VIOLATION. EACH DAY THAT THE
3 STAFFING PLAN IS NOT FILED AND EACH SHIFT THAT DOES NOT SATISFY THE
4 MINIMUM STAFFING REQUIREMENTS FOR THAT UNIT IS A SEPARATE
5 VIOLATION. THE DEPARTMENT SHALL TAKE INTO ACCOUNT EACH VIOLATION OF
6 THIS SECTION WHEN MAKING LICENSURE DECISIONS.

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

12 (10) AS USED IN THIS SECTION:

13 (A) "ACUITY SYSTEM" MEANS A SYSTEM ESTABLISHED TO MEASURE
14 PATIENT NEEDS AND NURSING CARE REQUIREMENTS FOR EACH UNIT TO ENSURE
15 SAFE PATIENT CARE BASED UPON THE SEVERITY OF EACH PATIENT'S ILLNESS
16 AND NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE INTENSITY OF
17 NURSING INTERVENTIONS REQUIRED FOR EACH PATIENT, AND THE COMPLEXITY
18 OF THE CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT, AND
19 EVALUATE EACH PATIENT'S CARE PLAN.

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

21 (C) "MANDATORY OVERTIME" MEANS A MANDATED ASSIGNMENT FOR A
22 REGISTERED PROFESSIONAL NURSE TO WORK MORE THAN HIS OR HER
23 REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED
24 WORK SCHEDULE.

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

27 (E) "STAFFING PLAN" MEANS A WRITTEN PLAN THAT ESTABLISHES THE

1 MINIMUM SPECIFIC NUMBER OF REGISTERED PROFESSIONAL NURSES REQUIRED
2 TO BE PRESENT IN EACH UNIT FOR EACH SHIFT TO ENSURE SAFE PATIENT
3 CARE.

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