

SENATE BILL No. 1019

March 14, 2012, Introduced by Senators WARREN, YOUNG, HOPGOOD, SMITH, HOOD and GLEASON 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 THIS
2 SECTION AND ANNUALLY THEREAFTER, A HOSPITAL SHALL SUBMIT TO THE
3 DEPARTMENT A STAFFING PLAN AS PROVIDED UNDER THIS SECTION. A
4 HOSPITAL SHALL DEVELOP AND IMPLEMENT A WRITTEN STAFFING PLAN THAT
5 PROVIDES SUFFICIENT, APPROPRIATELY QUALIFIED NURSING STAFF IN EACH
6 UNIT WITHIN THE HOSPITAL IN ORDER TO MEET THE INDIVIDUALIZED NEEDS
7 OF ITS PATIENTS. A HOSPITAL SHALL DEVELOP AN ASSESSMENT TOOL THAT
8 EVALUATES THE ACTUAL PATIENT ACUITY LEVELS AND NURSING CARE
9 REQUIREMENTS FOR EACH UNIT DURING EACH SHIFT. THE HOSPITAL SHALL
10 USE THE ASSESSMENT TOOL TO MAKE ADJUSTMENTS TO THE STAFFING PLAN AS

1 NEEDED TO ENSURE SAFE PATIENT CARE.

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

17 (3) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, A
18 HOSPITAL SHALL ESTABLISH AND IMPLEMENT AN ACUITY SYSTEM FOR
19 ADDRESSING FLUCTUATIONS IN ACTUAL PATIENT ACUITY LEVELS AND NURSING
20 CARE REQUIREMENTS REQUIRING INCREASED STAFFING LEVELS ABOVE THE
21 MINIMUMS SET FORTH UNDER SUBSECTION (4). THE HOSPITAL SHALL USE THE
22 ASSESSMENT TOOL ANNUALLY TO REVIEW THE ACCURACY OF THE ACUITY
23 SYSTEM ESTABLISHED UNDER THIS SUBSECTION.

24 (4) WITHIN 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, A
25 HOSPITAL'S STAFFING PLAN SHALL INCORPORATE, AT A MINIMUM, THE
26 FOLLOWING DIRECT CARE REGISTERED PROFESSIONAL NURSE-TO-PATIENT
27 RATIOS FOR EACH OF THE CORRESPONDING UNITS:

- 1 (A) CRITICAL CARE - ADULT OR PEDIATRIC: 1 TO 1.
2 (B) OPERATING ROOM: 1 TO 1.
3 (C) LABOR AND DELIVERY:
4 (i) DURING SECOND AND THIRD STAGES OF LABOR: 1 TO 1.
5 (ii) DURING FIRST STAGE OF LABOR: 1 TO 2.
6 (iii) INTERMEDIATE CARE NEWBORN NURSERY: 1 TO 3.
7 (iv) NONCRITICAL ANTEPARTUM PATIENTS: 1 TO 4.
8 (v) POSTPARTUM MOTHER BABY COUPLET: 1 TO 3.
9 (vi) POSTPARTUM OR WELL-BABY CARE: 1 TO 6.
10 (D) POSTANESTHESIA CARE UNIT: 1 TO 2.
11 (E) EMERGENCY DEPARTMENT:
12 (i) NONTRAUMA OR NONCRITICAL CARE: 1 TO 3.
13 (ii) TRAUMA OR CRITICAL CARE: 1 TO 1.
14 (iii) ONE R.N. FOR TRIAGE.
15 (F) STEPDOWN: 1 TO 3.
16 (G) TELEMETRY: 1 TO 3.
17 (H) MEDICAL/SURGICAL: 1 TO 4.
18 (I) PEDIATRICS: 1 TO 4.
19 (J) BEHAVIORAL HEALTH: 1 TO 4.
20 (K) REHABILITATION CARE: 1 TO 5.
21 (5) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SUBSECTION, IN
22 COMPUTING THE REGISTERED PROFESSIONAL NURSE-TO-PATIENT RATIO
23 REQUIRED UNDER SUBSECTION (4), A HOSPITAL SHALL NOT INCLUDE A
24 REGISTERED PROFESSIONAL NURSE WHO IS NOT ASSIGNED TO PROVIDE DIRECT
25 PATIENT CARE IN THAT UNIT OR WHO IS NOT ORIENTED, QUALIFIED, AND
26 COMPETENT TO PROVIDE SAFE PATIENT CARE IN THAT UNIT. IN THE EVENT
27 OF AN UNFORESEEN EMERGENT SITUATION, A HOSPITAL MAY INCLUDE A STAFF

1 MEMBER WHO IS A REGISTERED PROFESSIONAL NURSE WHO IS NOT NORMALLY
2 USED IN COMPUTING THE RATIO REQUIREMENT BECAUSE THE STAFF MEMBER
3 PERFORMS PRIMARILY ADMINISTRATIVE FUNCTIONS IF THE STAFF MEMBER
4 PROVIDES DIRECT PATIENT CARE DURING THE EMERGENCY, BUT SHALL BE
5 INCLUDED IN THE COMPUTATION ONLY FOR AS LONG AS THE EMERGENT
6 SITUATION EXISTS. IN COMPUTING THE REGISTERED PROFESSIONAL NURSE-
7 TO-PATIENT RATIO FOR THE OPERATING ROOM, THE HOSPITAL SHALL NOT
8 INCLUDE A CIRCULATING R.N. OR A FIRST ASSISTANT R.N.

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

14 (7) A HOSPITAL SHALL POST THE HOSPITAL'S STAFFING PLAN FOR
15 EACH UNIT IN A CONSPICUOUS PLACE WITHIN THAT UNIT FOR PUBLIC
16 REVIEW. UPON REQUEST, THE HOSPITAL SHALL PROVIDE COPIES OF THE
17 STAFFING PLAN THAT ARE FILED WITH THE DEPARTMENT TO THE PUBLIC. THE
18 HOSPITAL SHALL MAKE AVAILABLE FOR EACH MEMBER OF THE NURSING STAFF
19 A COPY OF THE STAFFING PLAN FOR HIS OR HER UNIT, INCLUDING THE
20 NUMBER OF DIRECT CARE REGISTERED PROFESSIONAL NURSES REQUIRED FOR
21 EACH SHIFT AND THE NAMES OF THOSE REGISTERED PROFESSIONAL NURSES
22 ASSIGNED AND PRESENT DURING EACH SHIFT. A STAFFING PLAN DEVELOPED
23 UNDER THIS SECTION AND THE MINIMUM STAFFING RATIOS ESTABLISHED
24 UNDER THIS SECTION ARE MINIMUMS AND SHALL BE INCREASED AS NEEDED TO
25 PROVIDE SAFE PATIENT CARE AS DETERMINED BY THE HOSPITAL'S ACUITY
26 SYSTEM OR ASSESSMENT TOOL. A HOSPITAL SHALL NOT USE MANDATORY
27 OVERTIME AS A STAFFING STRATEGY IN THE DELIVERY OF SAFE PATIENT

1 CARE EXCEPT IN THE EVENT OF AN UNFORESEEN EMERGENT SITUATION.

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

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

19 (10) AS USED IN THIS SECTION:

20 (A) "ACUITY SYSTEM" MEANS A SYSTEM ESTABLISHED TO MEASURE
21 PATIENT NEEDS AND NURSING CARE REQUIREMENTS FOR EACH UNIT TO ENSURE
22 SAFE PATIENT CARE BASED UPON THE SEVERITY OF EACH PATIENT'S ILLNESS
23 AND NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY, THE INTENSITY OF
24 NURSING INTERVENTIONS REQUIRED FOR EACH PATIENT, AND THE COMPLEXITY
25 OF THE CLINICAL NURSING JUDGMENT NEEDED TO DESIGN, IMPLEMENT, AND
26 EVALUATE EACH PATIENT'S CARE PLAN.

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

1 (C) "MANDATORY OVERTIME" MEANS A MANDATED ASSIGNMENT FOR A
2 REGISTERED PROFESSIONAL NURSE TO WORK MORE THAN HIS OR HER
3 REGULARLY SCHEDULED HOURS ACCORDING TO HIS OR HER PREDETERMINED
4 WORK SCHEDULE.

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

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

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