

# ASSEMBLY, No. 2439

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

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**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblywomen Vainieri Huttler, Timberlake, Jasey, Assemblymen  
Karabinchak and Kennedy**

**SYNOPSIS**

Establishes minimum registered professional nurse staffing standards for hospitals and ambulatory surgery facilities and certain DHS facilities.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/12/2021)**

1 AN ACT concerning nurse staffing standards in inpatient health care  
2 facilities and certain State facilities and supplementing Titles 26  
3 and 30 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. The Legislature finds and declares that:

9 a. Because of recent changes in the health care delivery  
10 system, patients in general and special hospitals and ambulatory  
11 surgery facilities in the State, and in State developmental centers  
12 and psychiatric hospitals, generally have higher acuity levels than in  
13 the past;

14 b. Recent studies demonstrate the link between adequate  
15 registered professional nurse staffing and improved mortality rates  
16 and quality of care among patients in health care facilities;

17 c. Inadequate nurse staffing can result in dangerous medical  
18 errors, patient infections, and increased injuries to patients and  
19 caregivers;

20 d. Inadequate and poorly monitored nurse staffing practices  
21 jeopardize the delivery of health care services and adversely impact  
22 the health of patients;

23 e. The establishment of staffing standards for registered  
24 professional nurses in hospitals, ambulatory surgery facilities, and  
25 State developmental centers and psychiatric hospitals should not be  
26 construed as justifying understaffing with respect to other critical  
27 health care workers; safe staffing practices recognize the  
28 importance of all health care workers in providing quality patient  
29 care because the availability of these other health care workers  
30 enables registered professional nurses to focus on the nursing care  
31 functions that only these nurses, by law, are permitted to perform;  
32 and

33 f. Understaffing at hospitals, ambulatory surgery facilities, and  
34 State developmental centers and psychiatric hospitals has been  
35 demonstrated to be an underlying cause of the current nursing  
36 shortage, since higher patient assignments create higher levels of  
37 job dissatisfaction, burnout, and turnover rates among nurses.

38  
39 2. a. In addition to staffing requirements provided by law or  
40 regulation on the effective date of this act, the Commissioner of  
41 Health shall adopt regulations that provide minimum direct care  
42 registered professional nurse-to-patient staffing ratios for all patient  
43 units in general and special hospitals and ambulatory surgical  
44 facilities in accordance with the requirements of this act. The  
45 regulations shall not decrease any nurse-to-patient staffing ratios in  
46 effect on the effective date of this act.

47 b. The regulations adopted pursuant to this section shall, at a  
48 minimum, provide for the following nurse-to-patient ratios:

- 1 (1) one registered professional nurse for every five patients on a  
2 medical/surgical unit;
- 3 (2) one registered professional nurse for every four patients in a  
4 step down, telemetry, or intermediate care unit;
- 5 (3) one registered professional nurse for every four patients in  
6 an emergency department, one registered professional nurse for  
7 every two patients in a critical care service of an emergency  
8 department, and one registered professional nurse for every patient  
9 in a trauma service of an emergency department;
- 10 (4) one registered professional nurse for every five patients in a  
11 behavioral health or psychiatric unit;
- 12 (5) one registered professional nurse for every two patients in a  
13 critical care, intensive care, neonatal, or burn unit;
- 14 (6) one registered professional nurse for every patient under  
15 anesthesia in an operating room, and one registered professional  
16 nurse for every two post-anesthesia patients in a recovery room or  
17 post-anesthesia care unit;
- 18 (7) one registered professional nurse for every two patients in a  
19 labor and delivery unit; one registered professional nurse for every  
20 four patients, including infants, in a postpartum unit in which the  
21 mother and infant share the same room; and one registered  
22 professional nurse for every six patients in a mothers-only unit; and
- 23 (8) one registered professional nurse for every four patients in a  
24 pediatric or intermediate care nursery unit, and one registered  
25 professional nurse for every six patients in a well-baby nursery.

26 c. As used in this section and section 3 of this act, "direct care  
27 registered professional nurse" means a registered professional nurse  
28 who is assigned to provide care for one or more patients in a  
29 specific unit, service, or department and is directly responsible for  
30 carrying out procedures, assessments, or other nursing protocols.

31  
32 3. The Commissioner of Health shall require all general and  
33 special hospitals and ambulatory surgical facilities to employ an  
34 acuity and staffing system, approved by the commissioner, for the  
35 purpose of increasing direct care registered professional nurse  
36 staffing levels above the minimum levels established in section 2 of  
37 this act, or otherwise provided by law or regulation, to ensure  
38 adequate staffing of each unit, service, or department, as applicable.

39 The acuity and staffing system shall meet the following  
40 requirements:

41 a. The system shall be based on: patient classification or  
42 acuity; professional nurse staffing standards adopted by nurse  
43 specialty organizations; skill mix; and the staffing levels of other  
44 health care personnel and the use of agency or temporary staff.

45 b. The system shall be established in the facility by the  
46 department of nursing with a majority of the unit staff nurses'  
47 approval, or with the approval of the bargaining agent for registered  
48 professional nurses at the facility.

1 c. The system shall allow forecasting of staffing levels and  
2 provide a method to adjust staff for each patient care unit based on  
3 objective criteria, including, but not limited to:

4 (1) Documented skills, training, and competency of staff to plan  
5 and provide nursing services in the nursing areas where they  
6 function;

7 (2) A patient database incorporating objective factors such as  
8 the case mix index, specific or aggregate patient diagnostic  
9 classifications or acuity levels, patient profiles, critical pathways or  
10 care progression plans, length of stay, and discharge plans;

11 (3) Operational factors, such as unit size, design, and capacity,  
12 the admission/discharge/transfer index, and support service  
13 availability;

14 (4) Contingency plans to address critical departures from the  
15 staffing plan, including policies and procedures to regulate closure  
16 of available beds if staffing levels fall below specified levels; and

17 (5) Policies and procedures for the reassignment of staff,  
18 including float and agency staff.

19 d. The system shall permit waiver of minimum staffing level  
20 requirements in the event of an unforeseen emergent circumstance  
21 which causes significant changes in the patient census for a regular  
22 shift. Waiver shall not be permitted unless the facility has made  
23 reasonable efforts to provide sufficient additional staff to meet the  
24 required minimum staffing levels, including seeking volunteers and  
25 making use of on-call staff, per-diem staff, agency staff, and float  
26 pools. As used in this subsection, "unforeseeable emergent  
27 circumstance" means an unpredictable or unavoidable occurrence  
28 requiring immediate action.

29 e. A hospital shall maintain a float pool of qualified registered  
30 professional nurses to accommodate changes in staffing needs.

31 f. A nurse who is assigned the duty of maintaining unit census  
32 for patients and staff or supervisory functions, or who spends a  
33 significant amount of time on non-nursing tasks, shall not be  
34 factored into the required staffing levels.

35 g. A registered professional nurse shall not be assigned to a  
36 unit, service, or department, or considered in the count of nursing  
37 staff in a unit, service, or department, unless that nurse has received  
38 prior orientation in the applicable clinical area and has  
39 demonstrated current competence in providing care in that unit,  
40 service, or department.

41

42 4. a. The Department of Health shall monitor and enforce the  
43 minimum staffing level requirements established by this act through  
44 periodic inspection and in response to any complaint filed pursuant  
45 to subsection b. of this section.

46 b. A registered professional nurse or other staff member who  
47 believes that the hospital or facility in which the nurse or staff  
48 member is employed is in violation of the staffing requirements or

1 the staffing and acuity system required pursuant to this act, or a  
2 member of the public who believes that a hospital or facility is in  
3 violation of the staffing requirements required under this act, may  
4 file a complaint with the Commissioner of Health. The complaint  
5 shall be filed in a form and manner determined by the  
6 commissioner. The commissioner shall conduct an investigation of  
7 the complaint to determine whether or not a hospital or facility is in  
8 violation and take such action as may be necessary to ensure  
9 compliance with the requirements of this act.

10 c. The Commissioner of Health may waive the minimum  
11 staffing level requirements established by this act for any hospital  
12 or facility that the commissioner determines is in financial distress.  
13 The commissioner may revoke a waiver granted pursuant to this  
14 subsection if the commissioner determines that the hospital or  
15 facility is no longer in financial distress.

16  
17 5. The Commissioner of Health shall, pursuant to the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.), adopt regulations, within 90 days of the effective date of this  
20 act, as necessary to carry out the provisions of this act.

21 The commissioner shall hold a public hearing on the proposed  
22 regulations within 30 days of their publication in the New Jersey  
23 Register.

24  
25 6. The Commissioner of Human Services shall conduct a  
26 review of Department of Human Services regulations concerning  
27 registered professional nurse staffing standards in developmental  
28 centers and State psychiatric hospitals, and shall revise the  
29 regulations, as appropriate, to reflect safe staffing practices and  
30 assure adequate staffing at the facilities.

31  
32 7. This act shall take effect on the first day of the 12th month  
33 after enactment, but the Commissioners of Health and Human  
34 Services may take such anticipatory administrative action in  
35 advance as shall be necessary for the implementation of this act.

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37

38 STATEMENT

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40 This bill establishes staffing standards for registered professional  
41 nurses in State hospitals, ambulatory surgical facilities,  
42 developmental centers, and psychiatric hospitals.

43 Specifically, the bill provides that, in addition to existing staffing  
44 requirements provided by law or regulation, the Commissioner of  
45 Health is to adopt regulations that provide minimum direct care  
46 registered professional nurse-to-patient staffing ratios for all patient  
47 units in general and special hospitals and ambulatory surgical  
48 facilities, in accordance with the minimum staffing requirements

1 that are established by the bill. As specified in the bill, minimum  
2 nurse-to-patient ratios will vary depending on the type of unit, and  
3 will range from one registered professional nurse for every five  
4 patients in a behavioral health or psychiatric or a medical/surgical  
5 unit, to one registered professional nurse for every patient under  
6 anesthesia in an operating room. The regulations adopted by the  
7 Commissioner of Health are not to decrease any nurse-to-patient  
8 staffing ratios that are already in effect on the bill's effective date.

9 The bill provides that the Commissioner of Health is to require  
10 all general and special hospitals and ambulatory surgical facilities  
11 to employ an acuity and staffing system for the purpose of  
12 increasing direct care registered professional nurse staffing levels  
13 above the minimum levels established in the bill, or otherwise  
14 provided by law or regulation, in order to ensure adequate staffing  
15 of each unit, service, or department. The acuity and staffing system  
16 will be based on: patient classification or acuity; professional nurse  
17 staffing standards adopted by nurse specialty organizations; skill  
18 mix; and the staffing levels of other health care personnel and the  
19 use of agency or temporary staff. The system is to be established in  
20 the facility by the facility's department of nursing, with the  
21 approval of a majority of the unit staff nurses or their bargaining  
22 agent. The bill requires the acuity and staffing system to allow for  
23 the forecasting of staffing levels, and to provide a method to adjust  
24 staffing levels for each patient care unit based on objective criteria  
25 currently set forth at N.J.A.C.8:43G-17.1(a)3, including, but not  
26 limited to:

27 (1) the documented skills, training, and competency of staff to  
28 plan and provide nursing services in the nursing areas where they  
29 function;

30 (2) a patient database incorporating objective factors such as the  
31 case mix index, specific or aggregate patient diagnostic  
32 classifications or acuity levels, patient profiles, critical pathways or  
33 care progression plans, length of stay, and discharge plans;

34 (3) operational factors, such as unit size, design, and capacity,  
35 the admission/discharge/transfer index, and support service  
36 availability;

37 (4) contingency plans to address critical departures from the  
38 staffing plan, including policies and procedures to regulate the  
39 closure of available beds if staffing levels fall below specified  
40 levels; and

41 (5) policies and procedures for the reassignment of staff,  
42 including float and agency staff.

43 The acuity and staffing system will additionally be required to  
44 permit waiver of minimum staffing level requirements in the event  
45 of an unforeseen emergent circumstance which causes significant  
46 changes in the patient census for a regular shift. Waiver will not be  
47 permitted unless the facility has made reasonable efforts to provide  
48 sufficient additional staff to meet the required minimum staffing

1 levels, including seeking volunteers and making use of on-call staff,  
2 per-diem staff, agency staff, and float pools. The bill defines  
3 “unforeseeable emergent circumstance” to mean an unpredictable or  
4 unavoidable occurrence requiring immediate action.

5 The Commissioner of Health will also be permitted to waive the  
6 minimum staffing level requirements for any hospital or facility that  
7 the commissioner determines is in financial distress. A waiver may  
8 be revoked upon a determination that the facility is no longer in  
9 financial distress.

10 The bill requires the Department of Health to enforce minimum  
11 staffing ratios by conducting periodic inspections and responding to  
12 complaints. The bill provides a system, pursuant to which a  
13 registered professional nurse, other staff member, or member of the  
14 public, believing that a facility is in violation of the staffing  
15 requirements or the staffing and acuity system, may file a complaint  
16 with the Commissioner of Health. In responding to a complaint, the  
17 commissioner will be required to conduct an investigation to  
18 determine whether or not a hospital or facility is in violation, and to  
19 take such other action as may be necessary to ensure compliance  
20 with the requirements of the bill.

21 Finally, in addition to the above-described requirements  
22 applicable to the Commissioner of Health, the bill requires the  
23 Commissioner of Human Services to conduct a review of  
24 Department of Human Services regulations concerning registered  
25 professional nurse staffing standards in developmental centers and  
26 State psychiatric hospitals, and to revise the regulations, as  
27 appropriate, to reflect safe staffing practices and assure adequate  
28 staffing at the facilities.