

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 55**

**Senator Skindell**

**Cosponsor: Senator Williams**

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**A BILL**

To amend sections 3727.50, 3727.51, 3727.52, and 1  
3727.53 and to enact sections 3727.80 to 3727.88 2  
of the Revised Code to establish minimum ratios 3  
of direct-care registered nurses to patients in 4  
hospitals, to specify rights of registered 5  
nurses working in hospitals, and to prohibit 6  
retaliatory actions by hospitals against 7  
registered nurses. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3727.50, 3727.51, 3727.52, and 9  
3727.53 be amended and sections 3727.80, 3727.81, 3727.82, 10  
3727.83, 3727.84, 3727.85, 3727.86, 3727.87, and 3727.88 of the 11  
Revised Code be enacted to read as follows: 12

**Sec. 3727.50.** As used in this section and sections 3727.51 13  
to 3727.57 of the Revised Code: 14

(A) "Direct patient care" means care provided by a nurse 15  
with direct responsibility to carry out medical regimens or 16  
nursing care for one or more patients. 17

(B) "Direct-care registered nurse" means a registered 18

nurse who provides direct patient care. 19

(C) "Inpatient care unit" means a hospital unit, including 20  
an operating room or other inpatient care area, in which nursing 21  
care is provided to patients who have been admitted to the 22  
hospital. 23

~~(C)~~ (D) "Nurse" means a person who is licensed to practice 24  
as a registered nurse under Chapter 4723. of the Revised Code 25  
or, if the hospital employs licensed practical nurses, a person 26  
who is licensed to practice as a licensed practical nurse under 27  
that chapter. 28

**Sec. 3727.51.** (A) Each hospital shall convene a hospital- 29  
wide nursing care committee not later than ninety days after ~~the~~ 30  
~~effective date of this section~~ September 12, 2008, or, if the 31  
hospital is not treating patients on ~~the effective date of this~~ 32  
~~section~~ September 12, 2008, ninety days after the hospital 33  
begins to treat patients. The hospital shall select the members 34  
of the committee, subject to all of the following: 35

(1) The hospital's chief nursing officer shall be included 36  
as a member of the committee. 37

(2) At least fifty per cent of the committee's membership 38  
shall consist of direct-care registered nurses ~~who provide~~ 39  
~~direct patient care in the hospital.~~ If the direct-care 40  
registered nurses are represented under a collective bargaining 41  
agreement, the authorized collective bargaining agent shall 42  
appoint the committee members who are direct-care registered 43  
nurses. 44

(3) The number of registered nurses included as members of 45  
the committee shall be sufficient to provide adequate 46  
representation of all types of nursing care services provided in 47

the hospital. 48

(B) The committee ~~member who is the hospital's chief-~~ 49  
~~nursing officer~~ shall establish a mechanism for obtaining input 50  
from nurses in all inpatient care units who provide direct 51  
patient care regarding what the nursing services staffing plan 52  
recommendations described in division (B) of section 3727.52 of 53  
the Revised Code should include. 54

**Sec. 3727.52.** A hospital-wide nursing care committee 55  
convened pursuant to section 3727.51 of the Revised Code shall 56  
do both of the following: 57

(A) If one exists, evaluate the hospital's current nursing 58  
services staffing plan; 59

(B) Recommend a nursing services staffing plan that ~~is, at-~~ 60  
~~a minimum, consistent with current standards established by-~~ 61  
~~private accreditation organizations or governmental entities and-~~ 62  
addresses all of the following: 63

(1) The selection, implementation, and evaluation of 64  
minimum staffing levels for all inpatient care units that ensure 65  
that the hospital has a staff of competent nurses with the 66  
specialized skills needed to meet patient needs ~~in accordance-~~ 67  
~~with evidence-based safe nurse staffing standards;~~ 68

(2) The complexity of complete care, assessment on patient 69  
admission, volume of patient admissions, discharges and 70  
transfers, evaluation of the progress of a patient's problems, 71  
the amount of time needed for patient education, ongoing 72  
physical assessments, planning for a patient's discharge, 73  
assessment after a change in patient condition, and assessment 74  
of the need for patient referrals; 75

(3) Patient acuity and the number of patients for whom 76

care is being provided; 77

(4) The need for ongoing assessments of a unit's patients 78  
and its nursing staff levels; 79

(5) The hospital's policy for identifying additional 80  
nurses who can provide direct patient care when patients' 81  
unexpected needs exceed the planned workload for direct care 82  
staff. 83

**Sec. 3727.53.** (A) In accordance with division (B) of this 84  
section, each hospital shall create ~~an evidence-based~~ a written 85  
nursing services staffing plan guiding the assignment of nurses 86  
hospital-wide other than direct-care registered nurses assigned 87  
pursuant to sections 3727.81 and 3727.82 of the Revised Code. 88  
~~The~~ 89

The staffing plan shall be implemented not later than 90  
ninety days after the hospital-wide nursing care committee is 91  
convened pursuant to section 3727.51 of the Revised Code, except 92  
that if the hospital's next fiscal year starts not later than 93  
one hundred eighty days after the date on which the committee 94  
convenes, implementation may be delayed until the first day of 95  
that fiscal year. 96

(B) The staffing plan created under this section ~~shall, at~~ 97  
~~a minimum, reflect current standards established by private~~ 98  
~~accreditation organizations or governmental entities. The plan~~ 99  
shall be based on multiple nurse and patient considerations that 100  
yield minimum staffing levels for inpatient care units that 101  
ensure that the hospital has a staff of competent nurses with 102  
specialized skills needed to meet patient needs. These 103  
considerations shall include both of the following: 104

(1) The recommendations of the hospital-wide nursing care 105

committee made under section 3727.52 of the Revised Code, which 106  
shall be given significant consideration; 107

(2) All of the matters listed in divisions (B) (1) to (5) 108  
of section 3727.52 of the Revised Code. 109

Sec. 3727.80. As used in sections 3727.80 to 3727.88 of 110  
the Revised Code: 111

(A) "Artificial life support" means a technological system 112  
used to aid, support, or replace a vital function of the body. 113

(B) "Direct-care registered nurse" has the same meaning as 114  
in section 3727.50 of the Revised Code. 115

(C) "Nursing intervention" means a determination by a 116  
direct-care registered nurse, before a medical order or 117  
treatment plan is implemented, that the order or plan is in the 118  
best interest of the patient. 119

(D) "Professional judgment" means application of a direct- 120  
care registered nurse's knowledge, skill, expertise, and 121  
experience in making decisions about patient care. 122

(E) "Technical support" means specialized equipment; 123  
providing for invasive monitoring, telemetry, or mechanical 124  
ventilation; or the immediate amelioration or remediation of 125  
severe pathology for a patient requiring less care than that 126  
provided by an intensive care unit but more than that provided 127  
by a medical-surgical unit. 128

Sec. 3727.81. (A) Each hospital shall maintain the 129  
following direct-care registered nurse-to-patient ratios: 130

(1) One direct-care registered nurse for each of the 131  
following: 132

<u>(a) A patient in an operating room;</u>	133
<u>(b) A patient receiving conscious sedation;</u>	134
<u>(c) A trauma or critical care patient in an emergency department;</u>	135 136
<u>(d) An active labor patient, patient with medical or obstetrical complications, or patient for whom the nurse initiates epidural anesthesia and circulation for cesarean delivery;</u>	137 138 139 140
<u>(e) An unstable newborn or newborn in a resuscitation period;</u>	141 142
<u>(f) Every three of the following: a healthy mother-infant couplet or, if a mother has delivered multiple infants, a healthy mother-infant group that includes not more than three of her infants.</u>	143 144 145 146
<u>(2) (a) One direct-care registered nurse for every two patients in each of the following units who is not a patient listed in division (A) (1) of this section:</u>	147 148 149
<u>(i) An intensive care unit;</u>	150
<u>(ii) A critical care unit for patients whose medical conditions require continuous monitoring, complex nursing interventions, restorative measures, and intensive nursing care through direct observation;</u>	151 152 153 154
<u>(iii) A neonatal intensive care unit;</u>	155
<u>(iv) A burn unit;</u>	156
<u>(v) A postanesthesia recovery unit, regardless of the type of anesthesia patients receive.</u>	157 158
<u>(b) One direct-care registered nurse for every two</u>	159

patients during the immediate postpartum period. 160

(3) (a) One direct-care registered nurse for every three 161  
patients in each of the following units who is not a patient 162  
listed in division (A) (1) or (2) (b) of this section: 163

(i) A step-down unit for patients whose severity of 164  
illness, including all comorbidities, restorative measures, and 165  
level of nursing intensity, requires any of the following: 166  
intermediate intensive care, monitoring, multiple assessments, 167  
specialized nursing interventions, evaluations, education of the 168  
patient's family or other representatives, or technical support 169  
but not necessarily artificial life support as a result of 170  
moderate or potentially severe physiologic instability; 171

(ii) A pediatric unit; 172

(iii) A telemetry unit designated for electronic 173  
monitoring, recording, retrieval, and display of cardiac 174  
electrical signals for patients whose severity of illness, 175  
including all comorbidities, restorative measures, and level of 176  
nursing intensity, requires intermediate intensive care, 177  
monitoring, multiple assessments, specialized nursing 178  
interventions, evaluation, or education of the patient's family 179  
or other representatives. 180

(b) One direct-care registered nurse for every three 181  
antepartum patients who are not in active labor or three mother- 182  
and-infant couplets in a postpartum area. 183

(4) (a) One direct-care registered nurse for every four 184  
patients in each of the following units who is not a patient 185  
listed in division (A) (1), (2) (b), or (3) (b) of this section: 186

(i) A medical-surgical unit for patients whose severity of 187  
illness requires continuous care through direct observation, 188

<u>including units for patients requiring less than intensive care</u>	189
<u>or step-down care, receiving twenty-four-hour inpatient general</u>	190
<u>medical care, post-surgical care, or both general medical and</u>	191
<u>post-surgical care, or with diverse diagnoses and diverse age</u>	192
<u>groups, but not units with pediatric patients;</u>	193
<u>(ii) A presurgical, admissions, or ambulatory surgical</u>	194
<u>unit;</u>	195
<u>(iii) A psychiatric unit;</u>	196
<u>(iv) Any other specialty unit.</u>	197
<u>(b) One direct-care registered nurse for every four of the</u>	198
<u>following patients:</u>	199
<u>(i) Patients in an emergency department who are not trauma</u>	200
<u>or critical care patients;</u>	201
<u>(ii) Mothers in an obstetrics unit who are not included in</u>	202
<u>division (A) (1) (f) of this section;</u>	203
<u>(iii) Postpartum or postgynecological surgery patients;</u>	204
<u>(iv) Recently born infants with no unusual medical needs</u>	205
<u>who are not included in division (A) (1) (f) of this section.</u>	206
<u>(5) (a) One direct-care registered nurse for every five</u>	207
<u>patients in each of the following units:</u>	208
<u>(i) A rehabilitation unit that is used to restore an ill</u>	209
<u>or injured patient to the highest level of self-sufficiency or</u>	210
<u>gainful employment of which the patient is capable in the</u>	211
<u>shortest possible time, compatible with the patient's physical,</u>	212
<u>intellectual, emotional, and psychological capabilities, and in</u>	213
<u>accordance with planned goals and objectives;</u>	214
<u>(ii) A skilled nursing unit that is used for the provision</u>	215



of skilled nursing care and supportive care to patients whose 216  
primary need is for skilled nursing care on a long-term basis 217  
and patients who are admitted after at least a forty-eight-hour 218  
period of continuous inpatient care and that provides activities 219  
and such services as medical, nursing, dietary, and pharmaceutic 220  
services. 221

(b) One direct-care registered nurse for every five 222  
infants in a well-baby nursery. 223

(6) The ratios determined in accordance with section 224  
3727.82 of the Revised Code for units and circumstances not 225  
specified in divisions (A) (1) to (5) of this section. 226

(B) The ratios listed in division (A) of this section are 227  
the minimum ratios of direct-care registered nurses to patients 228  
that a hospital is required to maintain at all times. 229

(C) Identifying a unit or circumstance other than as 230  
described in division (A) of this section does not affect the 231  
duty of a hospital to maintain the direct-care registered nurse- 232  
to-patient ratios listed in division (A) of this section. 233

**Sec. 3727.82.** (A) For each hospital unit not listed in 234  
section 3727.81 of the Revised Code, the hospital-wide nursing 235  
care committee convened under section 3727.51 of the Revised 236  
Code shall, using the factors specified in division (B) of this 237  
section, determine which unit listed in section 3727.81 of the 238  
Revised Code has patient needs most similar to those of the unit 239  
that is not listed in that section. The committee shall 240  
communicate the results of the determination to the 241  
administrators of the hospital. The hospital administrators 242  
shall ensure that the appropriate direct-care registered nurse- 243  
to-patient ratio is implemented for the unit not later than 244

thirty days after the committee makes the determination. 245

(B) The hospital-wide nursing care committee shall 246  
consider all of the following factors when making a 247  
determination required by division (A) of this section: 248

(1) The registered nursing care requirements for 249  
individual patients based on the severity of patient illness; 250

(2) The intensity of the nursing interventions and 251  
complexity of the professional judgment required to design, 252  
implement, and evaluate each patient's nursing care plan 253  
consistent with professional standards; 254

(3) The ability of each patient to provide self-care, 255  
regardless of motor, sensory, and cognitive deficits; 256

(4) The need for patient advocacy; 257

(5) The licensure of the personnel required for care; 258

(6) The patient care delivery system; 259

(7) The hospital's physical layout; 260

(8) The generally accepted standards of nursing practice; 261

(9) The elements that are unique to the hospital's patient 262  
population. 263

(C) A hospital shall implement the ratios established 264  
under this section not later than thirty days after the hospital 265  
administrators are informed of them. 266

**Sec. 3727.83.** Each hospital shall post daily, on a shift- 267  
by-shift basis, in a conspicuous place visible to the public, 268  
the required number of direct-care registered nurses for each 269  
patient and unit as determined under sections 3727.81 and 270  
3727.82 of the Revised Code, the actual number of direct-care 271

registered nurses for each patient and unit for that shift, and 272  
any difference between the two. 273

Each hospital shall provide each patient admitted to the 274  
hospital for inpatient care the telephone number of the toll- 275  
free patient safety telephone line made available to the public 276  
by the department of health under section 3701.91 of the Revised 277  
Code for reporting inadequate staffing or care in the hospital. 278  
The patient may use the telephone number to report inadequate 279  
staffing or care at the hospital. 280

**Sec. 3727.84.** (A) As used in this section, "competency" 281  
means the ability of a direct-care registered nurse to act and 282  
integrate the knowledge, skills, abilities, and professional 283  
judgment in a manner that promotes safe, therapeutic, and 284  
effective patient care. 285

(B) No hospital shall knowingly do any of the following 286  
regarding the direct-care registered nurse-to-patient ratios 287  
required by sections 3727.81 and 3727.82 of the Revised Code: 288

(1) Assign a direct-care registered nurse to a unit unless 289  
the hospital and nurse jointly determine that the nurse 290  
demonstrates competency in providing care in that unit and the 291  
nurse has completed orientation to the unit sufficient to 292  
provide safe, therapeutic, and effective care to patients in 293  
that unit; 294

(2) Average the number of patients and the number of 295  
direct-care registered nurses on a unit during any one shift or 296  
over any period of time; 297

(3) Include in the calculation of the direct-care 298  
registered nurse-to-patient ratio any of the following: nurse 299  
administrators, supervisors, managers, charge nurses, case 300

<u>managers, or triage, radio, or flight nurses;</u>	301
<u>(4) Impose mandatory overtime on any direct-care</u>	302
<u>registered nurse in order to meet the required direct-care</u>	303
<u>registered nurse-to-patient ratio;</u>	304
<u>(5) Impose layoffs of licensed practical nurses or other</u>	305
<u>ancillary or supportive personnel within the hospital as a means</u>	306
<u>of meeting the required ratios;</u>	307
<u>(6) Allow a nurse who is not a direct-care registered</u>	308
<u>nurse to relieve a direct-care registered nurse during a break,</u>	309
<u>meal, or other routine, expected absence from a unit;</u>	310
<u>(7) Use video cameras or monitors or any other form of</u>	311
<u>electronic visualization of a patient as a substitute for the</u>	312
<u>direct observation that is needed for the assessment of a</u>	313
<u>patient by a direct-care registered nurse;</u>	314
<u>(8) Assign a patient to a particular unit within the</u>	315
<u>hospital unless the unit's level of intensity, type of care, and</u>	316
<u>direct-care registered nurse-to-patient ratio meet the patient's</u>	317
<u>needs;</u>	318
<u>(9) Create or use units within the hospital that are</u>	319
<u>adjustable according to patient acuity.</u>	320
<u>(C) Each hospital shall establish criteria for determining</u>	321
<u>competency for purposes of division (B)(1) of this section. The</u>	322
<u>hospital shall include the criteria in the hospital's policies</u>	323
<u>and procedures.</u>	324
<b><u>Sec. 3727.85.</u></b> (A) A registered nurse employed by a	325
hospital has the right and duty to act as an advocate for the	326
nurse's patients, as circumstances require, by doing any of the	327
following:	328

(1) Initiating action to improve health care practices in 329  
the hospital, including providing professional input on the 330  
methods of patient care documentation and the number of 331  
ancillary and support staff, such as physical therapists, 332  
respiratory therapists, social workers, and patient lifting, 333  
transportation, housekeeping, and security personnel, who should 334  
be available and present to supplement the work of registered 335  
nurses; 336

(2) Advocating and monitoring activities to ensure 337  
hospital compliance with implementation of the nursing services 338  
staffing plan created under section 3727.53 of the Revised Code 339  
and assuring safe registered nurse staffing levels at the unit 340  
level; 341

(3) Determining whether a health information technology 342  
software program or tool displaces registered nurses from 343  
patient care, interferes with the nursing process, or otherwise 344  
compromises a registered nurse's professional judgment; 345

(4) Giving patients an opportunity to make informed 346  
decisions regarding their health care before the care is 347  
provided. 348

(B) A registered nurse employed by a hospital may object 349  
to, or refuse to participate in, any activity, policy, practice, 350  
assignment, or task if, in good faith, the nurse believes the 351  
activity, policy, practice, assignment, or task violates 352  
sections 3727.81 to 3727.84 of the Revised Code or division (A) 353  
of this section. With respect to an assignment, the nurse may 354  
refuse to complete the assignment if the nurse is not prepared 355  
by education, training, or experience to complete the assignment 356  
without compromising patient safety or jeopardizing the nurse's 357  
license to practice by creating the potential for professional 358

disciplinary action by the board of nursing. 359

**Sec. 3727.86.** (A) A hospital shall not discharge, 360  
retaliate against, discriminate against, or otherwise take 361  
adverse action against a registered nurse with respect to any 362  
aspect of the nurse's employment based on the nurse's refusal to 363  
complete an assignment as described in division (B) of section 364  
3727.85 of the Revised Code. Actions prohibited under this 365  
division include demoting the nurse, decreasing the nurse's 366  
compensation, and negatively altering the terms, conditions, or 367  
privileges of employment. 368

(B) A hospital shall not file a complaint against a 369  
registered nurse with the board of nursing based on the nurse's 370  
refusal to complete an assignment as described in division (B) 371  
of section 3727.85 of the Revised Code. 372

(C) A hospital shall not discriminate or retaliate against 373  
any individual for opposing any hospital policy, practice, or 374  
action that is alleged to violate sections 3727.81 to 3727.85 of 375  
the Revised Code. 376

(D) A hospital, or an individual representing a hospital, 377  
shall not do either of the following: 378

(1) Interfere with, restrain, or deny the exercise of, or 379  
attempt to deny the exercise of, a right conferred by sections 380  
3727.81 to 3727.85 of the Revised Code; 381

(2) Coerce or intimidate any individual regarding the 382  
exercise of, or an attempt to exercise, a right conferred by 383  
sections 3727.81 to 3727.85 of the Revised Code. 384

**Sec. 3727.87.** (A) A hospital that fails to comply with 385  
sections 3727.81 to 3727.86 of the Revised Code is subject to a 386  
fine imposed by the department of health. For each failure, the 387

department shall impose a fine of not more than twenty-five 388  
thousand dollars and an additional fine of not more than ten 389  
thousand dollars per nursing unit shift until the offense or 390  
violation is corrected. 391

(B) On request of the director of health, the attorney 392  
general shall bring and prosecute to judgment a civil action to 393  
collect any fine imposed under division (A) of this section that 394  
remains unpaid. 395

(C) All fines collected under this section shall be 396  
deposited into the state treasury to the credit of the general 397  
operations fund created under section 3701.83 of the Revised 398  
Code. 399

**Sec. 3727.88.** (A) A registered nurse has a cause of action 400  
against a hospital for violation of section 3727.86 of the 401  
Revised Code. The nurse may commence the action by filing a 402  
civil action in the court of common pleas of the county in which 403  
the hospital is located. 404

(B) A nurse who prevails on a cause of action commenced 405  
under this section is entitled to any one or more of the 406  
following remedies: 407

(1) Reinstatement to the position the nurse had before the 408  
hospital violated section 3727.86 of the Revised Code; 409

(2) Reimbursement of lost wages, compensation, and 410  
benefits; 411

(3) Attorneys' fees; 412

(4) Court costs; 413

(5) Any other damages the court considers appropriate. 414

**Section 2.** That existing sections 3727.50, 3727.51, 415  
3727.52, and 3727.53 of the Revised Code are hereby repealed. 416

**Section 3.** (A) As used in this section, "direct-care 417  
registered nurse" has the same meaning as in section 3727.50 of 418  
the Revised Code. 419

(B) It is the intent of the General Assembly to recognize 420  
all of the following: 421

(1) That each direct-care registered nurse employed by a 422  
hospital in this state has the right to do all of the following: 423

(a) Provide safe, therapeutic, effective, and competent 424  
nursing care to patients; 425

(b) Have the necessary knowledge, judgment, skills, and 426  
ability to provide the required care before accepting a patient 427  
assignment; 428

(c) Determine whether the nurse is clinically competent to 429  
perform the required care in a particular unit, or with a 430  
particular diagnosis, condition, prognosis, or other 431  
determinative characteristics of nursing care; 432

(d) Recognize that the nurse is not clinically competent 433  
to perform the required care and not accept the patient care 434  
assignment; 435

(e) Assess each medical order, and prior to acting on the 436  
order, determine whether the order is in the best interest of 437  
the patient and was initiated by a person legally authorized to 438  
initiate it; 439

(f) Perform continuous and ongoing patient assessments of 440  
each patient's condition, including direct observation of the 441  
patient's signs and symptoms of illness; reaction to treatment; 442



behavior and physical condition; interpretation of information 443  
obtained from the patient and others, including other caregivers 444  
on the health team; and data collection and analysis, synthesis, 445  
and evaluation of the data; 446

(g) Plan, implement, and evaluate the nursing care 447  
provided to each patient. 448

(2) That the assessment, nursing diagnosis, planning, 449  
intervention, evaluation and, as circumstances require, patient 450  
advocacy, should be initiated by a direct-care registered nurse 451  
at the time of the patient's admission to a hospital and 452  
continue as long as the patient remains in the hospital; 453

(3) That the refusal to accept a patient care assignment 454  
is an exercise of the direct-care registered nurse's duty and 455  
right of patient advocacy; 456

(4) That only direct-care registered nurses are authorized 457  
to perform patient assessments, although licensed practical 458  
nurses may assist direct-care registered nurses in data 459  
collection. 460