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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 373  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Blessing and Antonio

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### SUMMARY

- Revises the law directing each hospital to convene a hospital-wide nursing care committee and to create a nursing services staffing plan, including by requiring the hospital to adopt and implement its committee's nursing staffing plan rather than merely consider the committee's recommended staffing plan as under current law.
- Requires a hospital to adopt a nursing services staffing plan every two years.
- Requires a nursing services staffing plan to establish unit-specific minimum staffing levels for each hospital inpatient care unit.
- Allows a hospital to adjust a plan's unit-specific minimum staffing levels under certain circumstances, including public health emergencies.
- Requires a hospital to make a prompt and diligent effort to adhere to its nursing services staffing plan at least 80% of the time in each inpatient care unit and establishes penalties when a hospital does not.
- Requires the Administrator of Workers' Compensation to create a program to encourage hospitals to adhere to nursing services staffing plans, including by establishing discounts on premium rates.

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## DETAILED ANALYSIS

### Hospital-wide nursing care committees

The bill revises in several ways the law requiring each hospital to convene a hospital-wide nursing care committee.<sup>1</sup> The changes address committee membership as well as hospital and committee duties.

#### Membership

The bill alters the committee's membership as follows:

- While maintaining the existing law requirement that the hospital's chief nursing officer be included as a member, the bill allows other hospital administrators to serve as members, but only if the total number of hospital administrator members does not exceed 30% of the committee's membership;
- The bill requires at least 51% of the committee's membership to consist of registered nurses who provide direct patient care in the hospital, rather than at least 50% as under current law;
- While maintaining the authority of each hospital to select committee members, in the case of a hospital that employs or contracts with registered nurses who have bargained collectively with the hospital, the bill requires the nurses' collective bargaining representative to select a majority of the committee's registered nurse members, with the hospital selecting the remainder of those members.<sup>2</sup>

#### Committee duties

While maintaining the law requiring each hospital to convene a hospital-wide nursing care committee, the bill modifies the duties of such committees. First, it requires each committee to perform its duties every two years.<sup>3</sup> Second, it eliminates the requirement that a committee recommend a nursing services staffing plan, replacing it with a requirement to develop a plan that establishes for a two-year period unit-specific minimum staffing levels for each hospital inpatient care unit.<sup>4</sup>

#### Unit-specific minimum staffing levels

For purposes of the bill, a unit-specific minimum staffing level is the minimum number of registered nurses and licensed practical nurses assigned to provide direct patient care in a specific inpatient care unit of a hospital during an employment shift.<sup>5</sup>

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<sup>1</sup> R.C. 3727.51.

<sup>2</sup> R.C. 3727.51(A) and (B).

<sup>3</sup> R.C. 3727.52(A).

<sup>4</sup> R.C. 3727.52(A)(3).

<sup>5</sup> R.C. 3727.50(E).

## **Staffing ratios**

In developing a nursing services staffing plan, in particular unit-specific minimum staffing levels, the committee must express those staffing levels in either of the following terms:

- A fixed nurse-to-patient ratio;
- A ratio range that specifies a permissible minimum and maximum number of patients per nurse, provided that such a range ensures safe patient care and meets evidence-based safe nurse staffing standards.<sup>6</sup>

## **Plan approval**

As soon as practicable after developing a nursing services staffing plan, the committee must hold a vote to determine if the committee should approve the plan. Approval requires a majority vote from the committee.<sup>7</sup> The bill does not address the circumstance in which a committee fails to approve a staffing plan.

## **Chief nursing officer duty**

The bill also eliminates a current law duty specific to the committee's chief nursing officer member – establishing a mechanism for obtaining from nurses in all inpatient care units who provide direct patient care input regarding what the nursing services staffing plan recommendations should include.<sup>8</sup>

## **Adjustment model and patient acuity assessment tool**

The bill transfers from every hospital to every hospital-wide nursing care committee the existing duty to identify a model for adjusting a nursing services staffing plan adopted for each inpatient care unit. It also establishes a new duty on the committee – to adopt a standardized, evidence-based patient acuity assessment tool for use in adjusting a nursing services staffing plan.<sup>9</sup>

## **Hospital to adopt plan**

As soon as practicable after a hospital-wide nursing care committee develops and approves a nursing services staffing plan, the hospital must adopt and implement it for the two-year period that begins on the date of the plan's adoption.<sup>10</sup> This requirement replaces current law directing a hospital to create an evidence-based written nursing services staffing plan, after giving significant consideration to the recommendations of the committee.<sup>11</sup>

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<sup>6</sup> R.C. 3727.52(B).

<sup>7</sup> R.C. 3727.52(C).

<sup>8</sup> R.C. 3727.51(B).

<sup>9</sup> R.C. 3727.55.

<sup>10</sup> R.C. 3727.53(A).

<sup>11</sup> R.C. 3727.53, repealed and reenacted.

## **Nursing services staffing plans**

### **Initial filing with the Department of Health**

Not later than 30 days after a hospital adopts a nursing services staffing plan, the hospital must file it with the Ohio Department of Health (ODH).<sup>12</sup>

### **Adjustments**

During the two-year period in which a nursing services staffing plan is in effect, a hospital may adjust the plan's unit-specific minimum staffing levels, but only in the following circumstances:

- When patient care needs exceed the plan's unit-specific minimum staffing levels, but only if staffing levels are adjusted with the assistance of the staffing adjustment model and patient acuity assessment tool identified and adopted by the hospital-wide nursing care committee;
- When a public health emergency has been declared for a period not exceeding 90 days, for the geographic area in which the hospital is located, and in response to a health threat that poses a significant risk to the area's population.<sup>13</sup>

### **Committee approval**

Any adjustment to the nursing staffing services plan takes effect only on approval by a majority vote of the hospital-wide nursing care committee.<sup>14</sup>

### **Filing with ODH**

Not later than 30 days after an adjusted nursing services staffing plan is approved, the hospital must file it with ODH.

### **Plan adherence**

Under the bill, in each calendar quarter, a hospital must make a prompt and diligent effort to adhere to its nursing services staffing plan at least 80% of the time in each inpatient care unit. However, during a public health emergency, a hospital must make a prompt and diligent effort to adhere to the staffing plan at 60% of the time in each unit.<sup>15</sup>

### **Compliance reports to ODH**

On a quarterly basis, a hospital must submit to ODH a compliance report for the hospital. Each report must include compliance rates organized by unit-level; approved variances; and a summary of corrective actions taken when the adherence percentages were not met.<sup>16</sup>

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<sup>12</sup> R.C. 3727.53(D)(1).

<sup>13</sup> R.C. 3727.53(B).

<sup>14</sup> R.C. 3727.53(C).

<sup>15</sup> R.C. 3727.53(E).

<sup>16</sup> R.C. 3727.53(F)(1).

Before such a report is submitted, it must be certified by the hospital's chief nursing officer and a direct care nurse who serves as a co-chairperson for the hospital-wide nursing care committee.<sup>17</sup>

### **ODH website**

Not later than 30 days after receiving a hospital's compliance report, ODH must make it publicly available on its website. In doing so, ODH must use a format that is accessible to the public and searchable by hospital name, location, and reporting period. ODH also must ensure that the available reports include compliance rates organized by unit-level; approved variances; and a corrective action summary.<sup>18</sup>

### **Audits**

The bill authorizes ODH to audit a hospital if either of the following circumstances occur:

- A hospital's compliance report indicates that the hospital's compliance rate for any unit falls below 80% or, in the case of a public health emergency, 60%;
- ODH receives three or more complaints about the hospital's compliance rates that ODH determines are credible and substantiated.<sup>19</sup>

### **Fines**

If ODH determines that a hospital has not made a prompt and diligent effort to adhere to the staffing plan at the bill's percentages, ODH must assess a fine on the hospital in an amount that is equal to five times the average hourly wage for each hour of staffing under the bill's staffing percentages. ODH must deposit any fines collected to the credit of the Nurse Education Grant Program, a program that awards grants to nurse education programs to fund partnerships with health care facilities and other entities to increase nurse education program enrollment capacity.<sup>20</sup>

### **Workers' Compensation**

The bill requires the Administrator of Workers' Compensation to establish a program to encourage a hospital to adhere to the nursing services staffing plan that the hospital has adopted. The program is subject to the approval of the Bureau of Workers' Compensation Board of Directors.<sup>21</sup>

Under this program, the Administrator must establish the following:

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<sup>17</sup> R.C. 3727.53(F)(2).

<sup>18</sup> R.C. 3727.53(F)(3) and (4).

<sup>19</sup> R.C. 3727.53(G).

<sup>20</sup> R.C. 3727.53(H); R.C. 4723.063, not in the bill.

<sup>21</sup> R.C. 4123.293(B).

- A discount on premium rates for a hospital that adheres to its staffing plan at least 80% of the time in each inpatient unit in a calendar year and at least 60% of the time in each hospital unit during a public health emergency;
- Procedures for verifying eligibility for a discount;
- A process for resolving disputes related to eligibility and discount amounts.<sup>22</sup>

In Ohio, an employer can comply with the Workers’ Compensation Law in one of two ways: paying premiums into the State Insurance Fund or being granted the privilege of paying workers’ compensation and benefits directly.<sup>23</sup> An employer that is permitted to pay compensation and benefits directly is known as a “self-insuring” employer.<sup>24</sup> The premium discount program created by the Administrator under the bill likely could not apply to a hospital that is a self-insuring employer, because a self-insuring employer does not pay premiums.

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## HISTORY

Action	Date
Introduced	03-11-26

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<sup>22</sup> R.C. 4123.293(B)(1) to (3).

<sup>23</sup> R.C. 4123.35, not in the bill.

<sup>24</sup> R.C. 4123.01(G), not in the bill.