

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 637

Representatives Skindell, Ingram

**Cosponsors: Representatives Lepore-Hagan, Smith, K., Crossman, Sheehy,
Denson, Weinstein, Davis**

A BILL

To amend sections 3727.50, 3727.51, 3727.52, and 1
3727.53 and to enact sections 3727.80, 3727.81, 2
3727.82, 3727.83, 3727.84, 3727.85, 3727.86, 3
3727.87, 3727.88, and 3727.89 of the Revised 4
Code regarding staffing ratios and other 5
employment conditions for registered nurses 6
employed by hospitals. 7

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

Section 1. That sections 3727.50, 3727.51, 3727.52, and 8
3727.53 be amended and sections 3727.80, 3727.81, 3727.82, 9
3727.83, 3727.84, 3727.85, 3727.86, 3727.87, 3727.88, and 10
3727.89 of the Revised Code be enacted to read as follows: 11

Sec. 3727.50. As used in this section and sections 3727.51 12
to 3727.57 of the Revised Code: 13

(A) "Direct patient care" means care provided by a nurse 14
with direct responsibility to carry out medical regimens or 15
nursing care for one or more patients. 16

(B) "Direct-care registered nurse" means a registered 17

nurse who provides direct patient care. 18

(C) "Inpatient care unit" means a hospital unit, including 19
an operating room or other inpatient care area, in which nursing 20
care is provided to patients who have been admitted to the 21
hospital. 22

~~(C)~~ (D) "Nurse" means a person who is licensed to practice 23
as a registered nurse under Chapter 4723. of the Revised Code 24
or, if the hospital employs licensed practical nurses, a person 25
who is licensed to practice as a licensed practical nurse under 26
that chapter. 27

Sec. 3727.51. (A) Each hospital shall convene a hospital- 28
wide nursing care committee not later than ninety days after ~~the~~ 29
~~effective date of this section~~ September 12, 2008, or, if the 30
hospital is not treating patients on ~~the effective date of this~~ 31
~~section~~ September 12, 2008, ninety days after the hospital 32
begins to treat patients. The hospital shall select the members 33
of the committee, subject to all of the following: 34

(1) The hospital's chief nursing officer shall be included 35
as a member of the committee. 36

(2) At least fifty per cent of the committee's membership 37
shall consist of direct-care registered nurses ~~who provide~~ 38
~~direct patient care in the hospital.~~ If the direct-care 39
registered nurses are represented under a collective bargaining 40
agreement, the authorized collective bargaining agent shall 41
appoint the committee members who are direct-care registered 42
nurses. 43

(3) The number of registered nurses included as members of 44
the committee shall be sufficient to provide adequate 45
representation of all types of nursing care services provided in 46

the hospital. 47

(B) The committee ~~member who is the hospital's chief~~ 48
~~nursing officer~~ shall establish a mechanism for obtaining input 49
from nurses in all inpatient care units who provide direct 50
patient care regarding what the nursing services staffing plan 51
recommendations described in division (B) of section 3727.52 of 52
the Revised Code should include. 53

Sec. 3727.52. A hospital-wide nursing care committee 54
convened pursuant to section 3727.51 of the Revised Code shall 55
do both of the following: 56

(A) If one exists, evaluate the hospital's current nursing 57
services staffing plan; 58

(B) Recommend a nursing services staffing plan that ~~is, at~~ 59
~~a minimum, consistent with current standards established by~~ 60
~~private accreditation organizations or governmental entities and~~ 61
addresses all of the following: 62

(1) The selection, implementation, and evaluation of 63
minimum staffing levels for all inpatient care units that ensure 64
that the hospital has a staff of competent nurses with the 65
specialized skills needed to meet patient needs ~~in accordance~~ 66
~~with evidence-based safe nurse staffing standards;~~ 67

(2) The complexity of complete care, assessment on patient 68
admission, volume of patient admissions, discharges and 69
transfers, evaluation of the progress of a patient's problems, 70
the amount of time needed for patient education, ongoing 71
physical assessments, planning for a patient's discharge, 72
assessment after a change in patient condition, and assessment 73
of the need for patient referrals; 74

(3) Patient acuity and the number of patients for whom 75

care is being provided; 76

(4) The need for ongoing assessments of a unit's patients 77
and its nursing staff levels; 78

(5) The hospital's policy for identifying additional 79
nurses who can provide direct patient care when patients' 80
unexpected needs exceed the planned workload for direct care 81
staff. 82

Sec. 3727.53. (A) In accordance with division (B) of this 83
section, each hospital shall create ~~an evidence-based~~ a written 84
nursing services staffing plan guiding the assignment of nurses 85
hospital-wide other than direct-care registered nurses assigned 86
pursuant to sections 3727.81 and 3727.82 of the Revised Code. 87
The 88

The staffing plan shall be implemented not later than 89
ninety days after the hospital-wide nursing care committee is 90
convened pursuant to section 3727.51 of the Revised Code, except 91
that if the hospital's next fiscal year starts not later than 92
one hundred eighty days after the date on which the committee 93
convenes, implementation may be delayed until the first day of 94
that fiscal year. 95

(B) The staffing plan created under this section ~~shall, at-~~ 96
~~a minimum, reflect current standards established by private-~~ 97
~~accreditation organizations or governmental entities. The plan-~~ 98
shall be based on multiple nurse and patient considerations that 99
yield minimum staffing levels for inpatient care units that 100
ensure that the hospital has a staff of competent nurses with 101
specialized skills needed to meet patient needs. These 102
considerations shall include both of the following: 103

(1) The recommendations of the hospital-wide nursing care 104

committee made under section 3727.52 of the Revised Code, which 105
shall be given significant consideration; 106

(2) All of the matters listed in divisions (B)(1) to (5) 107
of section 3727.52 of the Revised Code. 108

Sec. 3727.80. As used in sections 3727.80 to 3727.89 of 109
the Revised Code: 110

(A) "Artificial life support" means a technological system 111
used to aid, support, or replace a vital function of the body. 112

(B) "Direct-care registered nurse" has the same meaning as 113
in section 3727.50 of the Revised Code. 114

(C) "Nursing intervention" means a determination by a 115
direct-care registered nurse, before a medical order or 116
treatment plan is implemented, that the order or plan is in the 117
best interest of the patient. 118

(D) "Professional judgment" means application of a direct- 119
care registered nurse's knowledge, skill, expertise, and 120
experience in making decisions about patient care. 121

(E) "Technical support" means specialized equipment; 122
providing for invasive monitoring, telemetry, or mechanical 123
ventilation; or the immediate amelioration or remediation of 124
severe pathology for a patient requiring less care than that 125
provided by an intensive care unit but more than that provided 126
by a medical-surgical unit. 127

Sec. 3727.81. It is the intent of the General Assembly to 128
recognize all of the following: 129

(A) That each direct-care registered nurse employed by a 130
hospital in this state has the right to do all of the following: 131

<u>(1) Provide safe, therapeutic, effective, and competent nursing care to patients;</u>	132 133
<u>(2) Have the necessary knowledge, judgment, skills, and ability to provide the required care before accepting a patient assignment;</u>	134 135 136
<u>(3) Determine whether the nurse is clinically competent to perform the required care in a particular unit, or with a particular diagnosis, condition, prognosis, or other determinative characteristics of nursing care;</u>	137 138 139 140
<u>(4) Recognize that the nurse is not clinically competent to perform the required care and not accept the patient care assignment;</u>	141 142 143
<u>(5) Assess each medical order, and prior to acting on the order, determine whether the order is in the best interest of the patient and was initiated by a person legally authorized to initiate it;</u>	144 145 146 147
<u>(6) Perform continuous and ongoing patient assessments of each patient's condition, including direct observation of the patient's signs and symptoms of illness; reaction to treatment; behavior and physical condition; interpretation of information obtained from the patient and others, including other caregivers on the health team; and data collection and analysis, synthesis, and evaluation of the data;</u>	148 149 150 151 152 153 154
<u>(7) Plan, implement, and evaluate the nursing care provided to each patient.</u>	155 156
<u>(B) That the assessment, nursing diagnosis, planning, intervention, evaluation and, as circumstances require, patient advocacy, should be initiated by a direct-care registered nurse at the time of the patient's admission to a hospital and</u>	157 158 159 160

<u>continue as long as the patient remains in the hospital;</u>	161
<u>(C) That the refusal to accept a patient care assignment</u>	162
<u>is an exercise of the direct-care registered nurse's duty and</u>	163
<u>right of patient advocacy;</u>	164
<u>(D) That only direct-care registered nurses are authorized</u>	165
<u>to perform patient assessments, although licensed practical</u>	166
<u>nurses may assist direct-care registered nurses in data</u>	167
<u>collection.</u>	168
<u>Sec. 3727.82.</u> (A) <u>Each hospital shall maintain the</u>	169
<u>following direct-care registered nurse-to-patient ratios:</u>	170
<u>(1) One direct-care registered nurse for each of the</u>	171
<u>following:</u>	172
<u>(a) A patient in an operating room;</u>	173
<u>(b) A patient receiving conscious sedation;</u>	174
<u>(c) A trauma or critical care patient in an emergency</u>	175
<u>department;</u>	176
<u>(d) An active labor patient, patient with medical or</u>	177
<u>obstetrical complications, or patient for whom the nurse</u>	178
<u>initiates epidural anesthesia and circulation for cesarean</u>	179
<u>delivery;</u>	180
<u>(e) An unstable newborn or newborn in a resuscitation</u>	181
<u>period;</u>	182
<u>(f) Every three of the following: a healthy mother-infant</u>	183
<u>couplet or, if a mother has delivered multiple infants, a</u>	184
<u>healthy mother-infant group that includes not more than three of</u>	185
<u>her infants.</u>	186
<u>(2) (a) One direct-care registered nurse for every two</u>	187

<u>patients in each of the following units who is not a patient</u>	188
<u>listed in division (A) (1) of this section:</u>	189
<u>(i) An intensive care unit;</u>	190
<u>(ii) A critical care unit for patients whose medical</u>	191
<u>conditions require continuous monitoring, complex nursing</u>	192
<u>interventions, restorative measures, and intensive nursing care</u>	193
<u>through direct observation;</u>	194
<u>(iii) A neonatal intensive care unit;</u>	195
<u>(iv) A burn unit;</u>	196
<u>(v) A postanesthesia recovery unit, regardless of the type</u>	197
<u>of anesthesia patients receive.</u>	198
<u>(b) One direct-care registered nurse for every two</u>	199
<u>patients during the immediate postpartum period.</u>	200
<u>(3) (a) One direct-care registered nurse for every three</u>	201
<u>patients in each of the following units who is not a patient</u>	202
<u>listed in division (A) (1) or (2) (b) of this section:</u>	203
<u>(i) A step-down unit for patients whose severity of</u>	204
<u>illness, including all comorbidities, restorative measures, and</u>	205
<u>level of nursing intensity, requires any of the following:</u>	206
<u>intermediate intensive care, monitoring, multiple assessments,</u>	207
<u>specialized nursing interventions, evaluations, education of the</u>	208
<u>patient's family or other representatives, or technical support</u>	209
<u>but not necessarily artificial life support as a result of</u>	210
<u>moderate or potentially severe physiologic instability;</u>	211
<u>(ii) A pediatric unit;</u>	212
<u>(iii) A telemetry unit designated for electronic</u>	213
<u>monitoring, recording, retrieval, and display of cardiac</u>	214

electrical signals for patients whose severity of illness, 215
including all comorbidities, restorative measures, and level of 216
nursing intensity, requires intermediate intensive care, 217
monitoring, multiple assessments, specialized nursing 218
interventions, evaluation, or education of the patient's family 219
or other representatives. 220

(b) One direct-care registered nurse for every three 221
antepartum patients who are not in active labor or three mother- 222
and-infant couplets in a postpartum area. 223

(4) (a) One direct-care registered nurse for every four 224
patients in each of the following units who is not a patient 225
listed in division (A) (1), (2) (b), or (3) (b) of this section: 226

(i) A medical-surgical unit for patients whose severity of 227
illness requires continuous care through direct observation, 228
including units for patients requiring less than intensive care 229
or step-down care, receiving twenty-four-hour inpatient general 230
medical care, post-surgical care, or both general medical and 231
post-surgical care, or with diverse diagnoses and diverse age 232
groups, but not units with pediatric patients; 233

(ii) A presurgical, admissions, or ambulatory surgical 234
unit; 235

(iii) A psychiatric unit; 236

(iv) Any other specialty unit. 237

(b) One direct-care registered nurse for every four of the 238
following patients: 239

(i) Patients in an emergency department who are not trauma 240
or critical care patients; 241

(ii) Mothers in an obstetrics unit who are not included in 242

<u>division (A) (1) (f) of this section;</u>	243
<u>(iii) Postpartum or postgynecological surgery patients;</u>	244
<u>(iv) Recently born infants with no unusual medical needs</u> <u>who are not included in division (A) (1) (f) of this section.</u>	245 246
<u>(5) (a) One direct-care registered nurse for every five</u> <u>patients in each of the following units:</u>	247 248
<u>(i) A rehabilitation unit that is used to restore an ill</u> <u>or injured patient to the highest level of self-sufficiency or</u> <u>gainful employment of which the patient is capable in the</u> <u>shortest possible time, compatible with the patient's physical,</u> <u>intellectual, emotional, and psychological capabilities, and in</u> <u>accordance with planned goals and objectives;</u>	249 250 251 252 253 254
<u>(ii) A skilled nursing unit that is used for the provision</u> <u>of skilled nursing care and supportive care to patients whose</u> <u>primary need is for skilled nursing care on a long-term basis</u> <u>and patients who are admitted after at least a forty-eight-hour</u> <u>period of continuous inpatient care and that provides activities</u> <u>and such services as medical, nursing, dietary, and pharmaceutic</u> <u>services.</u>	255 256 257 258 259 260 261
<u>(b) One direct-care registered nurse for every five</u> <u>infants in a well-baby nursery.</u>	262 263
<u>(6) The ratios determined in accordance with section</u> <u>3727.82 of the Revised Code for units and circumstances not</u> <u>specified in divisions (A) (1) to (5) of this section.</u>	264 265 266
<u>(B) The ratios listed in division (A) of this section are</u> <u>the minimum ratios of direct-care registered nurses to patients</u> <u>that a hospital is required to maintain at all times.</u>	267 268 269
<u>(C) Identifying a unit or circumstance other than as</u>	270

described in division (A) of this section does not affect the 271
duty of a hospital to maintain the direct-care registered nurse- 272
to-patient ratios listed in division (A) of this section. 273

Sec. 3727.83. (A) For each hospital unit not listed in 274
section 3727.82 of the Revised Code, the hospital-wide nursing 275
care committee convened under section 3727.51 of the Revised 276
Code shall, using the factors specified in division (B) of this 277
section, determine which unit listed in section 3727.82 of the 278
Revised Code has patient needs most similar to those of the unit 279
that is not listed in that section. The committee shall 280
communicate the results of the determination to the 281
administrators of the hospital. The hospital administrators 282
shall ensure that the appropriate direct-care registered nurse- 283
to-patient ratio is implemented for the unit not later than 284
thirty days after the committee makes the determination. 285

(B) The hospital-wide nursing care committee shall 286
consider all of the following factors when making a 287
determination required by division (A) of this section: 288

(1) The registered nursing care requirements for 289
individual patients based on the severity of patient illness; 290

(2) The intensity of the nursing interventions and 291
complexity of the professional judgment required to design, 292
implement, and evaluate each patient's nursing care plan 293
consistent with professional standards; 294

(3) The ability of each patient to provide self-care, 295
regardless of motor, sensory, and cognitive deficits; 296

(4) The need for patient advocacy; 297

(5) The licensure of the personnel required for care; 298

<u>(6) The patient care delivery system;</u>	299
<u>(7) The hospital's physical layout;</u>	300
<u>(8) The generally accepted standards of nursing practice;</u>	301
<u>(9) The elements that are unique to the hospital's patient population.</u>	302 303
<u>(C) A hospital shall implement the ratios established under this section not later than thirty days after the hospital administrators are informed of them.</u>	304 305 306
<u>Sec. 3727.84.</u> <u>Each hospital shall post daily, on a shift-by-shift basis, in a conspicuous place visible to the public, the required number of direct-care registered nurses for each patient and unit as determined under sections 3727.82 and 3727.83 of the Revised Code, the actual number of direct-care registered nurses for each patient and unit for that shift, and any difference between the two.</u>	307 308 309 310 311 312 313
<u>Each hospital shall provide each patient admitted to the hospital for inpatient care the telephone number of the toll-free patient safety telephone line made available to the public by the department of health under section 3701.91 of the Revised Code for reporting inadequate staffing or care in the hospital. The patient may use the telephone number to report inadequate staffing or care at the hospital.</u>	314 315 316 317 318 319 320
<u>Sec. 3727.85.</u> <u>(A) As used in this section, "competency" means the ability of a direct-care registered nurse to act and integrate the knowledge, skills, abilities, and professional judgment in a manner that promotes safe, therapeutic, and effective patient care.</u>	321 322 323 324 325
<u>(B) No hospital shall knowingly do any of the following</u>	326

<u>regarding the direct-care registered nurse-to-patient ratios</u>	327
<u>required by sections 3727.82 and 3727.83 of the Revised Code:</u>	328
<u>(1) Assign a direct-care registered nurse to a unit unless</u>	329
<u>the hospital and nurse jointly determine that the nurse</u>	330
<u>demonstrates competency in providing care in that unit and the</u>	331
<u>nurse has completed orientation to the unit sufficient to</u>	332
<u>provide safe, therapeutic, and effective care to patients in</u>	333
<u>that unit;</u>	334
<u>(2) Average the number of patients and the number of</u>	335
<u>direct-care registered nurses on a unit during any one shift or</u>	336
<u>over any period of time;</u>	337
<u>(3) Include in the calculation of the direct-care</u>	338
<u>registered nurse-to-patient ratio any of the following: nurse</u>	339
<u>administrators, supervisors, managers, charge nurses, case</u>	340
<u>managers, or triage, radio, or flight nurses;</u>	341
<u>(4) Impose mandatory overtime on any direct-care</u>	342
<u>registered nurse in order to meet the required direct-care</u>	343
<u>registered nurse-to-patient ratio;</u>	344
<u>(5) Impose layoffs of licensed practical nurses or other</u>	345
<u>ancillary or supportive personnel within the hospital as a means</u>	346
<u>of meeting the required ratios;</u>	347
<u>(6) Allow a nurse who is not a direct-care registered</u>	348
<u>nurse to relieve a direct-care registered nurse during a break,</u>	349
<u>meal, or other routine, expected absence from a unit;</u>	350
<u>(7) Use video cameras or monitors or any other form of</u>	351
<u>electronic visualization of a patient as a substitute for the</u>	352
<u>direct observation that is needed for the assessment of a</u>	353
<u>patient by a direct-care registered nurse;</u>	354

(8) Assign a patient to a particular unit within the 355
hospital unless the unit's level of intensity, type of care, and 356
direct-care registered nurse-to-patient ratio meet the patient's 357
needs; 358

(9) Create or use units within the hospital that are 359
adjustable according to patient acuity. 360

(C) Each hospital shall establish criteria for determining 361
competency for purposes of division (B) (1) of this section. The 362
hospital shall include the criteria in the hospital's policies 363
and procedures. 364

Sec. 3727.86. (A) A registered nurse employed by a 365
hospital has the right and duty to act as an advocate for the 366
nurse's patients, as circumstances require, by doing any of the 367
following: 368

(1) Initiating action to improve health care practices in 369
the hospital, including providing professional input on the 370
methods of patient care documentation and the number of 371
ancillary and support staff, such as physical therapists, 372
respiratory therapists, social workers, and patient lifting, 373
transportation, housekeeping, and security personnel, who should 374
be available and present to supplement the work of registered 375
nurses; 376

(2) Advocating and monitoring activities to ensure 377
hospital compliance with implementation of the nursing services 378
staffing plan created under section 3727.53 of the Revised Code 379
and assuring safe registered nurse staffing levels at the unit 380
level; 381

(3) Determining whether a health information technology 382
software program or tool displaces registered nurses from 383

patient care, interferes with the nursing process, or otherwise 384
compromises a registered nurse's professional judgment; 385

(4) Giving patients an opportunity to make informed 386
decisions regarding their health care before the care is 387
provided. 388

(B) A registered nurse employed by a hospital may object 389
to, or refuse to participate in, any activity, policy, practice, 390
assignment, or task if, in good faith, the nurse believes the 391
activity, policy, practice, assignment, or task violates 392
sections 3727.82 to 3727.85 of the Revised Code or division (A) 393
of this section. With respect to an assignment, the nurse may 394
refuse to complete the assignment if the nurse is not prepared 395
by education, training, or experience to complete the assignment 396
without compromising patient safety or jeopardizing the nurse's 397
license to practice by creating the potential for professional 398
disciplinary action by the board of nursing. 399

Sec. 3727.87. (A) A hospital shall not discharge, 400
retaliate against, discriminate against, or otherwise take 401
adverse action against a registered nurse with respect to any 402
aspect of the nurse's employment based on the nurse's refusal to 403
complete an assignment as described in division (B) of section 404
3727.86 of the Revised Code. Actions prohibited under this 405
division include demoting the nurse, decreasing the nurse's 406
compensation, and negatively altering the terms, conditions, or 407
privileges of employment. 408

(B) A hospital shall not file a complaint against a 409
registered nurse with the board of nursing based on the nurse's 410
refusal to complete an assignment as described in division (B) 411
of section 3727.86 of the Revised Code. 412

(C) A hospital shall not discriminate or retaliate against any individual for opposing any hospital policy, practice, or action that is alleged to violate sections 3727.82 to 3727.86 of the Revised Code. 413
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(D) A hospital, or an individual representing a hospital, shall not do either of the following: 417
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(1) Interfere with, restrain, or deny the exercise of, or attempt to deny the exercise of, a right conferred by sections 3727.82 to 3727.86 of the Revised Code; 419
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(2) Coerce or intimidate any individual regarding the exercise of, or an attempt to exercise, a right conferred by sections 3727.82 to 3727.86 of the Revised Code. 422
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Sec. 3727.88. (A) A hospital that fails to comply with sections 3727.82 to 3727.87 of the Revised Code is subject to a fine imposed by the department of health. For each failure, the department shall impose a fine of not more than twenty-five thousand dollars and an additional fine of not more than ten thousand dollars per nursing unit shift until the offense or violation is corrected. 425
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(B) On request of the director of health, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (A) of this section that remains unpaid. 432
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(C) All fines collected under this section shall be deposited into the state treasury to the credit of the general operations fund created under section 3701.84 of the Revised Code. 436
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Sec. 3727.89. (A) A registered nurse has a cause of action against a hospital for violation of section 3727.87 of the 440
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Revised Code. The nurse may commence the action by filing a 442
civil action in the court of common pleas of the county in which 443
the hospital is located. 444

(B) A nurse who prevails on a cause of action commenced 445
under this section is entitled to any one or more of the 446
following remedies: 447

(1) Reinstatement to the position the nurse had before the 448
hospital violated section 3727.87 of the Revised Code; 449

(2) Reimbursement of lost wages, compensation, and 450
benefits; 451

(3) Attorneys' fees; 452

(4) Court costs; 453

(5) Any other damages the court considers appropriate. 454

Section 2. That existing sections 3727.50, 3727.51, 455
3727.52, and 3727.53 of the Revised Code are hereby repealed. 456