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By: **Delegates V. Turner, Benson, Costa, Hubbard, and Oaks**

Introduced and read first time: January 27, 2005

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Safe Nurse Staffing for Quality Care Act**

3 FOR the purpose of requiring a hospital to ensure direct care nursing staff meet the  
4 individual care needs of patients; requiring each hospital to annually submit to  
5 the Department of Health and Mental Hygiene a certain staffing plan and a  
6 certain certification; requiring the staffing plan to meet certain requirements;  
7 providing that a staffing plan may not incorporate or assume that certain  
8 functions are to be performed by certain personnel; requiring the staffing plan to  
9 incorporate certain direct care nurse-to-patient ratios; requiring the  
10 Department to establish certain ratios in regulation; specifying the use of the  
11 ratios in staffing; authorizing the Secretary of Health and Mental Hygiene to  
12 require a staffing plan to have higher ratios than the minimum requirements;  
13 requiring a hospital, as a condition of licensure, to have staff on duty in  
14 accordance with the hospital's staffing plan and staffing standards; prohibiting  
15 a nurse from being assigned or included in the ratio count unless the nurse  
16 meets certain requirements; requiring a hospital that uses temporary nursing  
17 agencies to have and adhere to a certain written procedure; requiring a hospital,  
18 as a condition of licensure, to maintain certain records and statistics for a  
19 certain period of time and, subject to certain privacy laws and regulations, to  
20 make the records and statistics available upon request; requiring a hospital, as  
21 a condition of licensure, to adopt, disseminate to direct care nurses, and comply  
22 with a certain work assignment policy; establishing minimum requirements for  
23 the work assignment policy; providing that a nurse who refuses an assignment  
24 pursuant to a work assignment policy may not be considered to have engaged in  
25 negligent or incompetent action or patient abandonment or otherwise to have  
26 violated applicable nursing law; requiring a hospital, as a condition of licensure,  
27 to post in a certain place a certain notice and a certain comparison and to make  
28 available certain staffing plans and certain documentation; requiring the  
29 Secretary to adopt certain regulations and prepare a certain notice; prohibiting  
30 the Secretary from delegating certain functions to another authority or agency;  
31 prohibiting certain persons from taking certain actions against a nurse for  
32 certain reasons; providing that certain persons are subject to certain penalties  
33 for certain violations or other actions; providing for a certain hearing and  
34 certain appeals; providing that a hospital that violates certain rights may be  
35 held liable for certain relief; requiring a court to award certain attorneys' fees

1 and costs; providing that a nurse's right to institute a private right of action may  
2 not be limited by certain provisions; prohibiting the Department from  
3 reimbursing a hospital for services provided to Maryland Medical Assistance  
4 Program recipients under certain circumstances; requiring a hospital to meet  
5 certain requirements as a condition of licensure; authorizing the Secretary to  
6 make certain inspections under certain circumstances; defining certain terms;  
7 providing for a delayed effective date; and generally relating to nursing staff  
8 requirements in hospitals.

9 BY repealing and reenacting, without amendments,  
10 Article - Health - General  
11 Section 1-101(a), (c), and (j) and 15-101(a) and (h)  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Health - General  
16 Section 15-110, 19-308(b)(1) and (2), and 19-327(a)  
17 Annotated Code of Maryland  
18 (2000 Replacement Volume and 2004 Supplement)

19 BY adding to  
20 Article - Health - General  
21 Section 19-319(i); and 19-3C-01 through 19-3C-10, inclusive, to be under the  
22 new subtitle "Subtitle 3C. Safe Nurse Staffing for Quality Care Act"  
23 Annotated Code of Maryland  
24 (2000 Replacement Volume and 2004 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article - Health - General**

28 1-101.

29 (a) In this article the following words have the meanings indicated.

30 (c) "Department" means the Department of Health and Mental Hygiene.

31 (j) "Secretary" means the Secretary of Health and Mental Hygiene.

32 15-101.

33 (a) In this title the following words have the meanings indicated.

34 (h) "Program" means the Maryland Medical Assistance Program.

1 15-110.

2 (A) The Department shall reimburse acute general and chronic care hospitals  
3 that participate in the Program for care provided to Program recipients in accordance  
4 with rates that the Health Services Cost Review Commission approves under Title 19,  
5 Subtitle 2 of this article, if the United States Department of Health and Human  
6 Services approves this method of reimbursement.

7 (B) (1) IF A HOSPITAL LICENSE IS SUSPENDED OR REVOKED AS A RESULT  
8 OF A VIOLATION OF TITLE 19, SUBTITLE 3C OF THIS ARTICLE, THE DEPARTMENT MAY  
9 NOT REIMBURSE THE HOSPITAL FOR SERVICES PROVIDED TO PROGRAM RECIPIENTS  
10 DURING THE PERIOD IN WHICH THE LICENSE IS SUSPENDED OR REVOKED.

11 (2) IF THE SECRETARY FINDS THAT A HOSPITAL HAS FALSIFIED OR  
12 CAUSED TO BE FALSIFIED DOCUMENTATION REQUIRED UNDER TITLE 19, SUBTITLE  
13 3C OF THIS ARTICLE, THE DEPARTMENT MAY NOT REIMBURSE THE HOSPITAL FOR  
14 SERVICES PROVIDED TO PROGRAM RECIPIENTS FOR A PERIOD OF 6 MONTHS AFTER  
15 THE HOSPITAL IS FOUND TO BE IN VIOLATION.

16 19-308.

17 (b) (1) To assure compliance with the standards adopted under this subtitle  
18 AND THE REQUIREMENTS OF SUBTITLE 3C OF THIS TITLE, the Secretary shall have  
19 an inspection made:

20 (i) Of each related institution, each nonaccredited hospital, and  
21 each nonaccredited residential treatment center for which a license is sought; and

22 (ii) Periodically of each related institution, each nonaccredited  
23 hospital, and each nonaccredited residential treatment center for which a license has  
24 been issued.

25 (2) An accredited hospital and an accredited residential treatment center  
26 shall be subject to inspections under this subtitle by the Department to:

27 (i) Investigate a complaint in accordance with § 19-309 of this  
28 part;

29 (ii) Review compliance with a written progress report or other  
30 documentation of corrective action in response to a focused survey submitted by the  
31 hospital or residential treatment center to the Joint Commission on Accreditation of  
32 Healthcare Organizations in response to a Type I finding that the hospital or  
33 residential treatment center is only in partial compliance with the patient care  
34 standards established by the Joint Commission on Accreditation of Healthcare  
35 Organizations; [or]

36 (iii) Monitor corrective action, in accordance with § 19-360 of this  
37 subtitle, for any serious or life-threatening patient care deficiency identified by the  
38 Joint Commission on Accreditation of Healthcare Organizations, the Health Care  
39 Financing Administration, or the Department; OR

1 (IV) ENSURE COMPLIANCE WITH THE REQUIREMENTS OF SUBTITLE  
2 3C OF THIS TITLE.

3 19-319.

4 (I) (1) IN THIS SUBSECTION, "HOSPITAL" HAS THE MEANING STATED IN §  
5 19-3C-01 OF THIS TITLE.

6 (2) AS A CONDITION OF LICENSURE, EACH HOSPITAL SHALL MEET THE  
7 REQUIREMENTS OF SUBTITLE 3C OF THIS TITLE.

8 19-327.

9 (a) (1) The Secretary shall deny a license to any applicant or revoke a  
10 license if the applicant or licensee has been convicted of a felony that relates to  
11 Medicaid or to a nursing home.

12 (2) The Secretary may deny a license to an applicant or revoke a license  
13 if the applicant or licensee does not meet the requirements of this subtitle or any rule  
14 or regulation that the Secretary adopts under this subtitle.

15 (3) THE SECRETARY MAY SUSPEND OR REVOKE A HOSPITAL LICENSE IF  
16 THE LICENSEE DOES NOT MEET THE REQUIREMENTS OF SUBTITLE 3C OF THIS TITLE.

17 SUBTITLE 3C. SAFE NURSE STAFFING FOR QUALITY CARE ACT.

18 19-3C-01.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) "ACUITY SYSTEM" MEANS AN ESTABLISHED MEASUREMENT INSTRUMENT  
22 THAT:

23 (1) PREDICTS NURSING CARE REQUIREMENTS FOR INDIVIDUAL  
24 PATIENTS BASED ON:

25 (I) SEVERITY OF PATIENT ILLNESS;

26 (II) NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY;

27 (III) INTENSITY OF NURSING INTERVENTIONS REQUIRED; AND

28 (IV) THE COMPLEXITY OF CLINICAL NURSING JUDGMENT NEEDED  
29 TO DESIGN, IMPLEMENT, AND EVALUATE THE PATIENT'S NURSING CARE PLAN;

30 (2) DETAILS THE AMOUNT OF NURSING CARE NEEDED, BOTH IN  
31 NUMBER OF DIRECT CARE NURSES AND IN SKILL MIX OF NURSING PERSONNEL  
32 REQUIRED, ON A DAILY BASIS, FOR EACH PATIENT IN A NURSING DEPARTMENT OR  
33 UNIT; AND

1 (3) IS STATED IN TERMS THAT CAN READILY BE USED AND  
2 UNDERSTOOD BY DIRECT CARE NURSES.

3 (C) "ASSESSMENT TOOL" IS A MEASUREMENT SYSTEM THAT COMPARES THE  
4 STAFFING LEVEL IN EACH NURSING DEPARTMENT OR UNIT AGAINST ACTUAL  
5 PATIENT NURSING CARE REQUIREMENTS TO REVIEW THE ACCURACY OF AN ACUITY  
6 SYSTEM.

7 (D) "DIRECT CARE NURSE" MEANS A REGISTERED NURSE WHO HAS PRINCIPAL  
8 RESPONSIBILITY TO OVERSEE OR DIRECTLY CARRY OUT MEDICAL REGIMENS,  
9 NURSING CARE, OR OTHER BEDSIDE CARE FOR PATIENTS.

10 (E) "DOCUMENTED STAFFING PLAN" MEANS A DETAILED WRITTEN PLAN  
11 SETTING FORTH THE MINIMUM NUMBER AND CLASSIFICATION OF DIRECT CARE  
12 NURSES REQUIRED IN EACH NURSING DEPARTMENT OR UNIT IN A HEALTH CARE  
13 FACILITY FOR A GIVEN YEAR, BASED ON:

14 (1) REASONABLE PROJECTIONS DERIVED FROM THE PATIENT CENSUS  
15 AND AVERAGE ACUITY LEVEL WITHIN EACH DEPARTMENT OR UNIT DURING THE  
16 PRIOR YEAR;

17 (2) THE DEPARTMENT OR UNIT SIZE AND PHYSICAL LAYOUT;

18 (3) THE NATURE OF SERVICES PROVIDED; AND

19 (4) ANY FORESEEABLE CHANGES IN DEPARTMENT OR UNIT SIZE OR  
20 FUNCTION DURING THE CURRENT YEAR.

21 (F) (1) "HOSPITAL" MEANS A HOSPITAL LICENSED UNDER SUBTITLE 3 OF  
22 THIS TITLE.

23 (2) "HOSPITAL" DOES NOT MEAN:

24 (I) A RELATED INSTITUTION;

25 (II) A RESIDENTIAL TREATMENT CENTER;

26 (III) A HOME HEALTH AGENCY;

27 (IV) A HOSPICE FACILITY;

28 (V) A HOSPITAL THAT DOES NOT PROVIDE ACUTE CARE; OR

29 (VI) A STATE-OWNED FACILITY.

30 (G) "NURSE" OR "REGISTERED NURSE" MEANS AN INDIVIDUAL LICENSED TO  
31 PRACTICE NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE.

32 (H) "NURSING CARE" MEANS CARE THAT IS:

1 (1) (I) WITHIN THE SCOPE OF PRACTICE SET FORTH UNDER TITLE 8  
2 OF THE HEALTH OCCUPATIONS ARTICLE OR OTHER APPLICABLE STATE NURSE  
3 PRACTICE ACT; OR

4 (II) OTHERWISE ENCOMPASSED WITHIN RECOGNIZED  
5 PROFESSIONAL STANDARDS OF NURSING PRACTICE; AND

6 (2) INCLUDES AT A MINIMUM:

7 (I) PATIENT ASSESSMENT;

8 (II) NURSING DIAGNOSIS;

9 (III) PLANNING;

10 (IV) INTERVENTION;

11 (V) EVALUATION; AND

12 (VI) PATIENT ADVOCACY.

13 (I) "STAFFING LEVEL" MEANS THE ACTUAL NUMERICAL NURSE TO PATIENT  
14 RATIO WITHIN A NURSING DEPARTMENT OR UNIT.

15 (J) "UNIT" MEANS A PATIENT CARE DIVISION IN A HOSPITAL.

16 19-3C-02.

17 (A) A HOSPITAL SHALL ENSURE THAT IT HAS SUFFICIENT, APPROPRIATELY  
18 QUALIFIED, DIRECT CARE NURSES IN EACH DEPARTMENT OR UNIT TO MEET THE  
19 INDIVIDUAL CARE NEEDS OF PATIENTS.

20 (B) AT A MINIMUM AND AS A CONDITION OF LICENSURE, EACH HOSPITAL  
21 SHALL MEET THE DIRECT CARE NURSING STAFF REQUIREMENTS OF SUBSECTIONS  
22 (C) AND (D) OF THIS SECTION.

23 (C) (1) EACH HOSPITAL SHALL SUBMIT ANNUALLY TO THE DEPARTMENT:

24 (I) A DOCUMENTED STAFFING PLAN; AND

25 (II) A WRITTEN CERTIFICATION THAT THE STAFFING PLAN WILL  
26 PROVIDE ADEQUATE AND APPROPRIATE DELIVERY OF HEALTH CARE SERVICES TO  
27 PATIENTS IN THE ENSUING YEAR.

28 (2) THE STAFFING PLAN SHALL:

29 (I) MEET THE MINIMUM REQUIREMENTS UNDER SUBSECTION (D)  
30 OF THIS SECTION;

31 (II) BE ADEQUATE TO MEET ANY ADDITIONAL REQUIREMENTS OF  
32 OTHER LAWS OR REGULATIONS;

1 (III) EMPLOY AND IDENTIFY AN APPROVED ACUITY SYSTEM THAT:

2 1. TAKES INTO CONSIDERATION THE PATIENT CARE  
3 SERVICES PROVIDED NOT ONLY BY REGISTERED NURSES BUT ALSO BY LICENSED  
4 PRACTICAL NURSES, SOCIAL WORKERS, AND OTHER HEALTH CARE PERSONNEL; AND

5 2. ADDRESSES FLUCTUATIONS IN ACTUAL PATIENT ACUITY  
6 LEVELS AND NURSING CARE THAT REQUIRE INCREASED STAFFING LEVELS ABOVE  
7 THE MINIMUMS SET FORTH IN THE STAFFING PLAN;

8 (IV) IDENTIFY AND CONSIDER OTHER UNIT OR DEPARTMENT  
9 ACTIVITIES SUCH AS DISCHARGES, TRANSFERS, ADMISSIONS, AND ADMINISTRATIVE  
10 AND SUPPORT TASKS THAT ARE EXPECTED TO BE DONE BY DIRECT CARE NURSES IN  
11 ADDITION TO DIRECT NURSING CARE;

12 (V) IDENTIFY AND CONSIDER THE STAFFING LEVEL OF AND  
13 SERVICES PROVIDED BY OTHER HEALTH CARE PERSONNEL IN MEETING PATIENT  
14 CARE NEEDS;

15 (VI) IDENTIFY THE ASSESSMENT TOOL USED TO VALIDATE THE  
16 ACUITY SYSTEM RELIED ON IN THE STAFFING PLAN;

17 (VII) IDENTIFY THE SYSTEM THAT WILL BE USED TO DOCUMENT  
18 ACTUAL STAFFING ON A DAILY BASIS WITHIN EACH DEPARTMENT OR UNIT;

19 (VIII) INCLUDE A WRITTEN ASSESSMENT OF THE ACCURACY OF THE  
20 PRIOR YEAR'S STAFFING PLAN IN LIGHT OF ACTUAL STAFFING NEEDS;

21 (IX) IDENTIFY EACH NURSE STAFF CLASSIFICATION IN THE  
22 STAFFING PLAN AND THE MINIMUM QUALIFICATIONS FOR EACH CLASSIFICATION;  
23 AND

24 (X) BE DEVELOPED IN CONSULTATION WITH:

25 1. A MAJORITY OF THE DIRECT CARE NURSES WITHIN EACH  
26 DEPARTMENT OR UNIT; OR

27 2. IN A COLLECTIVE BARGAINING SITUATION, THE  
28 APPLICABLE RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING  
29 REPRESENTATIVES OF THE DIRECT CARE NURSES.

30 (3) NOTWITHSTANDING PARAGRAPH (2)(V) OF THIS SUBSECTION, A  
31 STAFFING PLAN MAY NOT INCORPORATE OR ASSUME THAT NURSING CARE  
32 FUNCTIONS REQUIRED BY LICENSING LAW OR REGULATION OR ACCEPTED  
33 STANDARDS OF PRACTICE TO BE PERFORMED BY A REGISTERED NURSE ARE TO BE  
34 PERFORMED BY OTHER PERSONNEL INSTEAD.

35 (D) (1) THE STAFFING PLAN SHALL INCORPORATE, AT A MINIMUM, THE  
36 FOLLOWING DIRECT CARE NURSE-TO-PATIENT RATIOS:

1 (I) ONE NURSE TO ONE PATIENT IN OPERATING ROOM AND  
2 TRAUMA EMERGENCY UNITS;

3 (II) ONE NURSE TO TWO PATIENTS IN ALL CRITICAL CARE AREAS,  
4 INCLUDING EMERGENCY CRITICAL CARE AND ALL INTENSIVE CARE UNITS, LABOR  
5 AND DELIVERY UNITS, AND POSTANESTHESIA UNITS;

6 (III) ONE NURSE TO THREE PATIENTS IN ANTEPARTUM,  
7 EMERGENCY ROOM, PEDIATRIC, STEP-DOWN, AND TELEMETRY UNITS;

8 (IV) ONE NURSE TO FOUR PATIENTS IN INTERMEDIATE CARE  
9 NURSERY, MEDICAL/SURGICAL, AND ACUTE CARE PSYCHIATRIC UNITS;

10 (V) ONE NURSE TO FIVE PATIENTS IN REHABILITATION UNITS;

11 (VI) ONE NURSE TO SIX PATIENTS (THREE COUPLETS) IN  
12 POSTPARTUM UNITS; AND

13 (VII) ONE NURSE TO SIX PATIENTS IN WELL-BABY NURSERY UNITS.

14 (2) FOR UNITS NOT LISTED UNDER PARAGRAPH (1) OF THIS  
15 SUBSECTION, THE DEPARTMENT SHALL ESTABLISH THE APPROPRIATE DIRECT CARE  
16 NURSE-TO-PATIENT RATIOS IN REGULATION.

17 (3) (I) THE NURSE-TO-PATIENT RATIOS ESTABLISHED IN  
18 PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL DETERMINE THE MAXIMUM  
19 NUMBER OF PATIENTS THAT MAY BE ASSIGNED TO A DIRECT CARE NURSE IN A UNIT  
20 DURING A SINGLE SHIFT.

21 (II) A NURSE, INCLUDING A NURSE ADMINISTRATOR OR A NURSE  
22 SUPERVISOR, WHO DOES NOT HAVE PRINCIPAL RESPONSIBILITY AS A DIRECT CARE  
23 NURSE FOR A SPECIFIC PATIENT MAY NOT BE INCLUDED IN THE CALCULATION OF  
24 THE NURSE-TO-PATIENT RATIOS REQUIRED BY THIS SUBSECTION.

25 (4) THE MINIMUM STAFFING REQUIREMENTS AND NURSE-TO-PATIENT  
26 RATIOS IN THIS SUBSECTION SHALL BE ADJUSTED AS NECESSARY TO REFLECT THE  
27 ADDITIONAL DIRECT CARE NURSES NEEDED TO ENSURE ADEQUATE STAFFING OF  
28 EACH NURSING DEPARTMENT OR UNIT, IN ACCORDANCE WITH AN APPROVED  
29 ACUITY SYSTEM.

30 (5) THE SECRETARY MAY REQUIRE A STAFFING PLAN TO HAVE HIGHER  
31 NURSE-TO-PATIENT RATIOS THAN THOSE PROVIDED IN THIS SUBSECTION.

32 19-3C-03.

33 (A) (1) (I) AS A CONDITION OF LICENSURE, A HOSPITAL SHALL AT ALL  
34 TIMES HAVE STAFF ON DUTY IN ACCORDANCE WITH THE HOSPITAL'S STAFFING  
35 PLAN AND THE STAFFING STANDARDS REQUIRED UNDER § 19-3C-02 OF THIS  
36 SUBTITLE.



1 (II) A HOSPITAL MAY HAVE HIGHER DIRECT CARE  
2 NURSE-TO-PATIENT STAFFING LEVELS THAN THOSE REQUIRED UNDER § 19-3C-02  
3 OF THIS SUBTITLE.

4 (III) THE REQUIREMENTS OF § 19-3C-02 OF THIS SUBTITLE DO NOT  
5 SUPERCEDE OR REPLACE ANY HIGHER REQUIREMENTS MANDATED BY LAW,  
6 REGULATION, OR CONTRACT.

7 (2) (I) FOR PURPOSES OF COMPLIANCE WITH THE MINIMUM  
8 STAFFING REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE, A NURSE MAY NOT  
9 BE ASSIGNED OR INCLUDED IN THE NURSE-TO-PATIENT RATIO COUNT IN A  
10 NURSING UNIT OR A CLINICAL AREA WITHIN THE HOSPITAL UNLESS THE NURSE  
11 HAS:

12 1. AN APPROPRIATE REGISTERED NURSE LICENSE UNDER  
13 TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE;

14 2. RECEIVED PRIOR ORIENTATION IN THAT CLINICAL AREA  
15 SUFFICIENT TO PROVIDE COMPETENT NURSING CARE TO THE PATIENTS IN THAT  
16 UNIT OR CLINICAL AREA; AND

17 3. DEMONSTRATED CURRENT COMPETENCE IN PROVIDING  
18 CARE IN THAT UNIT OR CLINICAL AREA.

19 (II) A HOSPITAL THAT USES TEMPORARY NURSING AGENCIES  
20 SHALL HAVE AND ADHERE TO A WRITTEN PROCEDURE TO ORIENT AND EVALUATE  
21 THE COMPETENCY OF A NURSE FROM THE TEMPORARY NURSING AGENCY BEFORE  
22 INCLUDING THE NURSE IN THE NURSE-TO-PATIENT RATIO.

23 (3) THE AUTHORITY OF THE SECRETARY TO CONDUCT INSPECTIONS OF  
24 ACCREDITED AND UNACCREDITED HOSPITALS UNDER § 19-308 OF THIS TITLE SHALL  
25 INCLUDE INSPECTIONS TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF  
26 THIS SUBTITLE.

27 (B) (1) AS A CONDITION OF LICENSURE, A HOSPITAL SHALL MAINTAIN:

28 (I) ACCURATE DAILY RECORDS SHOWING, IN EACH NURSING  
29 DEPARTMENT OR UNIT:

30 1. THE NUMBER OF PATIENTS ADMITTED, RELEASED, AND  
31 PRESENT;

32 2. THE INDIVIDUAL ACUITY LEVEL OF EACH PATIENT  
33 PRESENT; AND

34 3. THE IDENTITY AND DUTY HOURS OF EACH DIRECT CARE  
35 NURSE; AND

36 (II) DAILY STATISTICS, BY NURSING DEPARTMENT AND UNIT, OF:

- 1 1. MORTALITY;
- 2 2. MORBIDITY;
- 3 3. INFECTION;
- 4 4. ACCIDENT;
- 5 5. INJURY; AND
- 6 6. MEDICAL ERRORS.

7 (2) A HOSPITAL SHALL MAINTAIN ALL RECORDS AND STATISTICS  
8 REQUIRED UNDER THIS SUBSECTION FOR 7 YEARS.

9 (3) (I) UPON REQUEST, A HOSPITAL SHALL MAKE AVAILABLE TO THE  
10 DEPARTMENT AND THE GENERAL PUBLIC ALL RECORDS AND STATISTICS REQUIRED  
11 UNDER THIS SUBSECTION.

12 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A  
13 HOSPITAL SHALL COMPLY WITH ALL APPLICABLE PATIENT PRIVACY LAWS AND  
14 REGULATIONS.

15 19-3C-04.

16 (A) AS A CONDITION OF LICENSURE, A HOSPITAL SHALL ADOPT, DISSEMINATE  
17 TO DIRECT CARE NURSES, AND COMPLY WITH A WRITTEN POLICY THAT MEETS THE  
18 REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS SECTION, DETAILING THE  
19 CIRCUMSTANCES UNDER WHICH A DIRECT CARE NURSE MAY REFUSE A WORK  
20 ASSIGNMENT.

21 (B) AT A MINIMUM, THE WORK ASSIGNMENT POLICY SHALL:

22 (1) PERMIT A DIRECT CARE NURSE TO REFUSE AN ASSIGNMENT:

23 (I) FOR WHICH THE NURSE IS NOT PREPARED BY EDUCATION,  
24 TRAINING, OR EXPERIENCE TO SAFELY FULFILL WITHOUT COMPROMISING OR  
25 JEOPARDIZING PATIENT SAFETY, THE NURSE'S ABILITY TO MEET FORESEEABLE  
26 PATIENT NEEDS, OR THE NURSE'S LICENSE; OR

27 (II) THAT WOULD VIOLATE REQUIREMENTS OF THIS SUBTITLE;  
28 AND

29 (2) CONTAIN PROCEDURES FOR:

30 (I) PRIOR WRITTEN NOTICE TO THE NURSE'S SUPERVISOR  
31 REGARDING THE NURSE'S REQUEST AND SUPPORTING REASONS FOR BEING  
32 RELIEVED OF THE ASSIGNMENT OR CONTINUED DUTY;

1 (II) WHERE FEASIBLE, AN OPPORTUNITY FOR THE SUPERVISOR TO  
2 REVIEW THE SPECIFIC CONDITIONS SUPPORTING THE NURSE'S REQUEST AND  
3 DECIDE WHETHER TO:

- 4 1. REMEDY THE CONDITIONS;
- 5 2. RELIEVE THE NURSE OF THE ASSIGNMENT; OR
- 6 3. DENY THE NURSE'S REQUEST TO BE RELIEVED OF THE  
7 ASSIGNMENT OR CONTINUED DUTY; AND

8 (III) A PROCESS THAT PERMITS THE NURSE TO EXERCISE THE  
9 RIGHT TO REFUSE THE ASSIGNMENT OR CONTINUED ON-DUTY STATUS WHEN THE  
10 SUPERVISOR DENIES THE REQUEST TO BE RELIEVED IF:

- 11 1. A. THE SUPERVISOR REJECTS THE REQUEST WITHOUT  
12 PROPOSING A REMEDY; OR
- 13 B. THE PROPOSED REMEDY WOULD BE INADEQUATE OR  
14 UNTIMELY;
- 15 2. PURSUING THE COMPLAINT AND INVESTIGATION  
16 PROCESS WITH THE DEPARTMENT WOULD BE UNTIMELY TO ADDRESS THE NURSE'S  
17 CONCERN; OR
- 18 3. THE NURSE IN GOOD FAITH BELIEVES THAT THE  
19 ASSIGNMENT MEETS CONDITIONS JUSTIFYING REFUSAL.

20 (C) A NURSE WHO REFUSES AN ASSIGNMENT PURSUANT TO A WORK  
21 ASSIGNMENT POLICY THAT MEETS THE REQUIREMENTS OF THIS SECTION MAY NOT  
22 BE CONSIDERED TO HAVE ENGAGED IN NEGLIGENT OR INCOMPETENT ACTION OR  
23 PATIENT ABANDONMENT OR OTHERWISE TO HAVE VIOLATED APPLICABLE NURSING  
24 LAW.

25 19-3C-05.

26 AS A CONDITION OF LICENSURE, A HOSPITAL SHALL:

27 (1) POST IN A CONSPICUOUS PLACE READILY ACCESSIBLE TO THE  
28 GENERAL PUBLIC:

29 (I) A NOTICE PREPARED BY THE DEPARTMENT DESCRIBING THE  
30 PROVISIONS OF THIS SUBTITLE; AND

31 (II) A COMPARISON OF THE MANDATORY AND ACTUAL DAILY  
32 NURSE STAFFING LEVELS IN EACH NURSING DEPARTMENT OR UNIT;

33 (2) UPON REQUEST, MAKE AVAILABLE TO THE GENERAL PUBLIC COPIES  
34 OF THE STAFFING PLAN FILED WITH THE DEPARTMENT; AND

1 (3) MAKE READILY AVAILABLE TO THE NURSING STAFF IN A  
2 DEPARTMENT OR UNIT, DURING EACH WORK SHIFT:

3 (I) A COPY OF THE CURRENT STAFFING PLAN FOR THAT  
4 DEPARTMENT OR UNIT;

5 (II) DOCUMENTATION OF THE NUMBER OF DIRECT CARE NURSES  
6 REQUIRED TO BE PRESENT DURING THE SHIFT, BASED ON THE APPROVED ACUITY  
7 SYSTEM ADOPTED BY THE HOSPITAL; AND

8 (III) DOCUMENTATION OF THE ACTUAL NUMBER OF DIRECT CARE  
9 NURSES PRESENT DURING THE SHIFT.

10 19-3C-06.

11 (A) THE SECRETARY SHALL:

12 (1) ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS  
13 SUBTITLE, INCLUDING REGULATIONS TO:

14 (I) REVIEW AND APPROVE ACUITY SYSTEMS SUBMITTED BY  
15 HOSPITALS;

16 (II) ESTABLISH DIRECT CARE NURSE-TO-PATIENT RATIOS FOR  
17 HOSPITAL UNITS NOT SPECIFIED IN THIS SUBTITLE;

18 (III) ESTABLISH A PROCESS TO INVESTIGATE THE COMPLAINT OF A  
19 NURSE WHO REFUSES AN ASSIGNMENT UNDER THE PROVISIONS OF § 19-3C-04 OF  
20 THIS SUBTITLE; AND

21 (IV) DESIGNATE CONDITIONS UNDER THIS SUBTITLE THAT  
22 CONSTITUTE SERIOUS LICENSURE VIOLATIONS, FOR PURPOSES OF IMPOSING  
23 ADMINISTRATIVE PENALTIES;

24 (2) PREPARE THE NOTICE REQUIRED UNDER § 19-3C-05 OF THIS  
25 SUBTITLE; AND

26 (3) DEVELOP AND ADOPT REGULATIONS FOR AN ACCESSIBLE AND  
27 CONFIDENTIAL PROCESS FOR REPORTING THE FAILURE OF A HOSPITAL TO COMPLY  
28 WITH THE REQUIREMENTS OF THIS SUBTITLE.

29 (B) THE SECRETARY MAY NOT DELEGATE ANY OF THE FUNCTIONS WITH  
30 RESPECT TO THE STAFFING REQUIREMENTS OF THIS SUBTITLE TO ANY OTHER  
31 AUTHORITY OR ACCREDITING AGENCY.

32 19-3C-07.

33 A HOSPITAL ADMINISTRATOR, NURSING SUPERVISOR, OR OTHER HOSPITAL  
34 AUTHORITY MAY NOT DISCHARGE, DISCRIMINATE AGAINST, OR IN ANY MANNER  
35 RETALIATE AGAINST A NURSE BECAUSE THE NURSE HAS:

1 (1) FILED A COMPLAINT OR INSTITUTED OR CAUSED TO BE INSTITUTED  
2 ANY PROCEEDING UNDER OR RELATED TO THIS SUBTITLE;

3 (2) TESTIFIED OR IS ABOUT TO TESTIFY IN ANY SUCH PROCEEDING; OR

4 (3) EXERCISED ON HIS OR HER OWN BEHALF OR ON BEHALF OF OTHERS  
5 ANY RIGHT AFFORDED BY THIS SUBTITLE.

6 19-3C-08.

7 (A) (1) A HOSPITAL THAT VIOLATES ANY PROVISION OF THIS SUBTITLE OR  
8 ANY REGULATION ADOPTED UNDER THIS SUBTITLE IS SUBJECT TO AN  
9 ADMINISTRATIVE PENALTY NOT TO EXCEED \$10,000 FOR EACH DAY OF  
10 NONCOMPLIANCE.

11 (2) (I) A HOSPITAL ADMINISTRATOR, NURSING SUPERVISOR, OR  
12 OTHER HOSPITAL OFFICIAL WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR  
13 ANY REGULATION ADOPTED UNDER THIS SUBTITLE, INCLUDING FAILURE TO  
14 CORRECT A SERIOUS LICENSURE VIOLATION, WITHIN THE TIME SPECIFIED BY THE  
15 DEPARTMENT, IS SUBJECT TO AN ADMINISTRATIVE PENALTY NOT TO EXCEED \$500  
16 FOR EACH DEFICIENCY FOR EACH DAY OF NONCOMPLIANCE.

17 (II) A PENALTY IMPOSED UNDER THIS PARAGRAPH SHALL BE  
18 EFFECTIVE FROM THE DATE THE HOSPITAL, HOSPITAL ADMINISTRATOR, NURSING  
19 SUPERVISOR, OR OTHER HOSPITAL OFFICIAL RECEIVES NOTICE OF THE VIOLATION  
20 UNTIL THE DATE THE DEPARTMENT CONFIRMS THAT THE VIOLATION HAS BEEN  
21 CORRECTED.

22 (B) THE DEPARTMENT MAY IMPOSE A PENALTY NOT TO EXCEED \$10,000 ON A  
23 PERSON, INCLUDING A HOSPITAL, THAT:

24 (1) FAILS TO REPORT OR FALSIFIES INFORMATION REQUIRED TO BE  
25 REPORTED UNDER THIS SUBTITLE; OR

26 (2) COERCES, THREATENS, INTIMIDATES, OR OTHERWISE INFLUENCES  
27 ANOTHER PERSON TO FAIL TO REPORT OR TO FALSIFY INFORMATION REQUIRED TO  
28 BE REPORTED UNDER THIS SUBTITLE.

29 (C) (1) BEFORE TAKING AN ACTION UNDER THIS SECTION, THE SECRETARY  
30 SHALL GIVE THE PERSON AN OPPORTUNITY FOR A HEARING.

31 (2) THE HEARING NOTICE SHALL BE SENT TO THE PERSON AT LEAST 10  
32 DAYS BEFORE THE HEARING.

33 (3) THE PERSON MAY BE REPRESENTED BY COUNSEL AT THE HEARING.

34 (D) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY MAY:

35 (1) APPEAL THAT DECISION TO THE BOARD OF REVIEW OF THE  
36 DEPARTMENT; AND

1 (2) THEN TAKE ANY FURTHER APPEAL ALLOWED BY THE  
2 ADMINISTRATIVE PROCEDURE ACT.

3 19-3C-09.

4 (A) A HOSPITAL THAT VIOLATES THE RIGHTS OF A NURSE UNDER THIS  
5 SUBTITLE MAY BE HELD LIABLE IN AN ACTION BROUGHT IN A COURT OF  
6 COMPETENT JURISDICTION FOR LEGAL OR EQUITABLE RELIEF, INCLUDING:

7 (1) REINSTATEMENT;

8 (2) PROMOTION;

9 (3) LOST WAGES AND BENEFITS; AND

10 (4) COMPENSATORY AND CONSEQUENTIAL DAMAGES RESULTING FROM  
11 THE VIOLATION TOGETHER WITH AN EQUAL AMOUNT IN LIQUIDATED DAMAGES.

12 (B) IN ADDITION TO ANY JUDGMENT AWARDED TO A PLAINTIFF UNDER  
13 SUBSECTION (A) OF THIS SECTION, THE COURT SHALL AWARD REASONABLE  
14 ATTORNEYS' FEES AND COSTS OF ACTION, TO BE PAID BY THE DEFENDANT.

15 (C) A NURSE'S RIGHT TO INSTITUTE A PRIVATE RIGHT OF ACTION MAY NOT BE  
16 LIMITED BY ANY PROVISION OF THIS SUBTITLE.

17 19-3C-10.

18 THIS SUBTITLE MAY BE CITED AS THE "SAFE NURSE STAFFING FOR QUALITY  
19 CARE ACT".

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2006.