

**Department of Legislative Services**  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**

House Bill 344 (Delegate V. Turner, *et al.*)  
 Health and Government Operations

**Safe Nurse Staffing for Quality Care Act**

This bill establishes the Safe Nurse Staffing for Quality Care Act.

The bill takes effect October 1, 2006.

**Fiscal Summary**

**State Effect:** Office of Health Care Quality (OHCQ) general fund expenditures could increase by \$753,700 in FY 2007. Potential minimal increase in general fund revenues due to the bill’s penalty provisions. Future year estimates reflect inflation.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	753,700	631,600	668,300	707,700
Net Effect	\$0	(\$753,700)	(\$631,600)	(\$668,300)	(\$707,700)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

**Analysis**

**Bill Summary:** A hospital must ensure that it has sufficient, appropriately qualified, direct care nurses in each department or unit to meet the individual care needs of patients. The Secretary of Health and Mental Hygiene may suspend or revoke a hospital license if the licensee does not meet the bill’s requirements.

As a condition of licensure, a hospital must meet specified direct care nursing staff requirements that include things such as direct care nurse-to-patient ratios and an approved “acuity system.” It must also annually submit to the Department of Health and Mental Hygiene (DHMH): (1) a documented staffing plan; and (2) a written certification that the staffing plan will provide adequate and appropriate delivery of health care services to patients in the ensuing year. A staffing plan may not incorporate or assume that nursing care functions to be performed by a registered nurse are to be performed by other personnel instead. The staffing plan must incorporate specified minimum nurse-to-patient staffing ratios.

A hospital must have staff on duty at all times in accordance with the hospital’s staffing plan. A hospital must maintain accurate daily records in each nursing department or unit and maintain these records for seven years. Upon request, a hospital must make these records available to DHMH and the public. In doing so, the hospital must comply with all applicable patient privacy laws.

The Secretary of Health and Mental Hygiene has the authority to conduct inspections of all accredited and unaccredited hospitals to ensure compliance with the bill. DHMH must: (1) review and approve acuity systems submitted by hospitals; (2) establish direct care nurse-to-patient ratios for hospital units not specified by the bill; (3) establish a process to investigate the complaint of a nurse who refuses an assignment; and (4) designate conditions that constitute serious licensure violations for the purpose of imposing administrative penalties. DHMH may not delegate any of the functions with respect to the staffing requirements to any other authority or accrediting agency.

A hospital administrator, nursing supervisor, or other hospital authority may not discharge, discriminate against, or in any manner retaliate against a nurse because the nurse has filed a complaint, testified in any proceeding, or exercised any right afforded by the bill.

A hospital that violates any of these provisions is subject to an administrative penalty not to exceed \$10,000 for each day of noncompliance. A hospital administrator, nursing supervisor, or other official who violates any of these provisions is subject to an administrative penalty not to exceed \$500 for each deficiency for each day of noncompliance.

DHMH may impose a penalty not to exceed \$10,000 on a person who fails to report or falsifies information, or coerces, threatens, intimidates, or otherwise influences another person to fail to report or to falsify information. Before imposing a fine, DHMH must give the person an opportunity for a hearing. Any person aggrieved by a final decision of

DHMH may appeal to the Board of Review, and take any further appeal permitted by the Administrative Procedure Act.

If a hospital license is suspended or revoked as a result of a violation, DHMH may not reimburse the hospital for services provided to Medicaid enrollees during the period in which the license is suspended or revoked. If DHMH finds that a hospital has falsified documentation, DHMH may not reimburse the hospital for service provided to Medicaid enrollees for six months after the hospital is found to be in violation.

**Current Law:** A hospital must be licensed by the State in order to operate. There are various standards and practices a hospital must meet as a condition of licensure. These include establishing a utilization review program, a credentialing process for physicians, a protocol for the procurement of organs and tissues, a risk management program, and Centers for Disease Control guidelines on universal precautions. DHMH may conduct inspections of a hospital to ensure compliance with these requirements. DHMH may also inspect a hospital to investigate and resolve any complaint concerning patient care, safety, medical and nursing supervision, physical environment, sanitation, or dietary matters.

**Background:** For the past several years, Maryland has been facing severe nursing shortages across the State. If trends in retirement and nursing program enrollment continue, the State's nursing shortage could balloon to more than 17,000 by 2012. In 2000, the Maryland Commission on the Crisis in Nursing was created to address the shortage. The commission identified several reasons for the continuing shortage, including poor workplace conditions. Employers often require uncompensated overtime, and work with high patient-to-nurse ratios.

**State Fiscal Effect:** OHCQ general fund expenditures could increase by \$753,728 in fiscal 2007, which reflects the bill's October 1, 2006 effective date. This estimate reflects the cost of establishing a web-based reporting system and hiring four health facilities nurse surveyors, one office secretary, one research statistician, one webmaster, and three data processing specialists. The bill prohibits DHMH from delegating any oversight or verification of staffing to an accreditation organization, such as the Joint Commission on Accreditation of Healthcare Organizations, and OHCQ does not have the staff or information systems in place to conduct inspections as well as review and approve acuity systems for 69 hospitals.

OHCQ would be required to automate the annual reporting process to collect and trend data to verify whether a hospital's acuity system is sufficient. In addition, since the current nursing shortage will make compliance with required nurse-to-patient ratios difficult, OHCQ estimates it would receive approximately 100 complaints alleging

inadequate nurse staffing, each of which would take 30 days to review. The four health facilities nurse surveyors and one research statistician would be responsible for reviewing and approving acuity systems submitted by hospitals and investigating complaints. Four information systems staff would be responsible for designing, implementing, and maintaining a web-based submission process whereby hospitals may submit their required data online to OHCQ. One office secretary would assist with administrative duties. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$558,982
Contract for Database and Web Design	156,295
Other Operating Expenses	<u>38,451</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$753,728</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

DHMH may impose penalties of up to \$10,000 on a hospital or person who does not comply with the bill. Any increase in general fund revenues from the fines is expected to be minimal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (Office of Health Care Quality), Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2005  
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