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Bill Analysis

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SUMMARY

- Requires hospitals to meet minimum staffing requirements when assigning registered nurses (RNs) in hospital units, including by meeting specified RN-to-patient ratios.
- Requires hospitals to develop and implement compliant nurse staffing plans, in place of their existing nursing services staffing plans, and to establish nurse staffing committees, in place of their existing hospital-wide nursing care committees.
- Permits the Director of Health to impose fines for violations of the staffing requirements and to engage in other enforcement activities.
- Establishes the Nursing Student Loan-to-Grant Program, under which nursing students may be awarded amounts that do not have to be repaid if a five-year service obligation is completed.
- Makes an appropriation.

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DETAILED ANALYSIS

REGISTERED NURSE STAFFING IN HOSPITALS

Revisions of existing hospital nurse staffing requirements

The bill establishes specific requirements that hospitals must meet in staffing their inpatient units with registered nurses (RNs), subject to enforcement by the Director of the Ohio Department of Health (ODH).¹ These requirements are in place of existing law under which each hospital that provides inpatient care must create a nursing services staffing plan to guide the assignment of nurses throughout the hospital. In association, the bill requires a hospital to create a nurse staffing committee, which replaces the laws requiring a hospital to create a hospital-wide nursing care committee.²

¹ R.C. 3722.21 to 3722.38.

² R.C. 3727.50 to 3727.57, all repealed, and Section 3; conforming changes in R.C. 4723.489 and 4730.203.

For a detailed description of the existing requirements for hospital staffing plans and committees that are replaced by the bill, see [LSC's analysis of H.B. 346 of the 127th General Assembly, As Enacted \(PDF\)](#), which is available on the archived website of the Ohio General Assembly: archives.legislature.state.oh.us.

Hospitals affected by or excluded from new staffing requirements

The bill's staffing requirements apply broadly to all hospitals and portions of hospitals that use RNs to provide the various types of patient care described in the bill.³ In general, "hospital" is defined by current law (for use in hospital licensure beginning September 30, 2024) as an institution or facility that provides inpatient medical or surgical services for a continuous period of longer than 24 hours.⁴

In addition to its broad application, the bill expressly includes the following as facilities that are subject to its staffing requirements:

- Maternity units and newborn care nurseries licensed separately by ODH, until they begin to be licensed as part of hospital licensure beginning September 30, 2024;
- Psychiatric inpatient units licensed by the Ohio Department of Mental Health and Addiction Services (OhioMHAS);
- Hospitals registered with ODH as long-term acute care hospitals.

Except for specific exclusions, the bill's staffing requirements apply to a hospital regardless of any other conflicting statute. The exclusions apply to the following:

- OhioMHAS-licensed hospitals and any other facility that it establishes, controls, or supervises;
- ODH-licensed freestanding inpatient rehabilitation facilities;
- ODH-licensed freestanding birthing centers.

Nurse staffing plans

Each hospital subject to the bill must develop and implement a nurse staffing plan that provides adequate, appropriate, and quality delivery of health care services and protects patient safety. The plan must document the methodology that is used to determine the hospital's needs for nursing staff.⁵

The plan is to be based on the recommendations the hospital receives from its nurse staffing committee. The plan must ensure that the hospital is in compliance with the nurse-to-

³ R.C. 3722.21.

⁴ R.C. 3722.01.

⁵ R.C. 3722.22.

patient staffing ratios required under the bill, once the ratio requirements become effective. Further, the plan must comply with all other provisions of the bill regarding nurse staffing.

A hospital must evaluate its plan on an annual basis. Based on the annual evaluation, the hospital must update its plan accordingly.

A copy of the plan must be submitted to the ODH Director. This applies to both the initial plan and each of the annual updates. The Director must establish procedures whereby the plans and updates are made available for public inspection.

Implementation

If a hospital is currently in operation, the initial plan must be developed and implemented within one year after the bill's effective date. For any hospital that begins operating after the bill's effective date, the initial plan must be developed and implemented as soon as practicable, as determined by the ODH Director.

Report on meeting demand for nurses

The bill requires the ODH Director to prepare a report containing recommendations for ensuring that sufficient numbers of nurses are available in Ohio to meet the bill's hospital staffing requirements. In doing so, the Director must consult with the Ohio Board of Nursing and the Ohio Department of Higher Education.

The report must be completed within one year after the bill's effective date. On completion, the Director must submit copies to the General Assembly.⁶

Hospital nurse staffing committees

The bill requires each hospital to establish a nurse staffing committee. The committee must meet at intervals it considers necessary to fulfill its responsibilities.⁷

The hospital must select the number of committee members, subject to the following:

- At least 50% of the membership must consist of direct care RNs, with at least one RN serving as a member from each of the hospital's patient care units. The member who represents a unit is to be selected by the other direct care RNs from that unit.
- All or part of the remainder of the membership must consist of a meaningful representation of direct care staff who serve in positions that are not considered management positions. These members are to be selected by other direct care staff who serve in nonmanagement positions.

The bill provides that attending a committee meeting or otherwise fulfilling the duties of membership is to be considered by the hospital as part of a member's regularly scheduled hours of work for any pay period.

⁶ Section 4.

⁷ R.C. 3722.23.

The committee is required to prepare and submit recommendations to the hospital regarding the nurse staffing plan required by the bill. The committee may prepare and submit recommendations on any other matter it considers relevant to the staffing, patient safety, and other provisions of the bill.

Minimum RN-to-patient staffing ratios in hospitals

Each hospital subject to the bill is required to staff its various patient units with direct care RNs based on a maximum number of patients who may be assigned to a nurse at one time. The requirements apply at all times during each working shift. The resulting RN-to-patient ratios are described in the following table.⁸

RN-to-Patient Ratio	Hospital Unit
1:1	<p>One RN for each patient in either of the following:</p> <ul style="list-style-type: none"> ▪ A trauma emergency unit; ▪ An operating room. (The bill also requires that there be at least one other person assigned to serve at the same time as an operating room assistant.)
1:2	<p>One RN for every two patients in a critical care unit, including those designated as:</p> <ul style="list-style-type: none"> ▪ Neonatal intensive care; ▪ Emergency critical care; ▪ Intensive care; ▪ Labor and delivery; ▪ Coronary care; ▪ Acute respiratory care; ▪ Post-anesthesia care; ▪ Burn care.
1:3	<p>One RN for every three patients in a unit designated as:</p> <ul style="list-style-type: none"> ▪ Emergency department care; ▪ Pediatric care; ▪ Step-down care; ▪ Telemetry care; ▪ Antepartum care; ▪ Combined unit for labor, delivery, and postpartum care.

⁸ R.C. 3722.24(A).

RN-to-Patient Ratio	Hospital Unit
1:4	One RN for every four patients in a unit designated as: <ul style="list-style-type: none"> ▪ Medical-surgical care; ▪ Intermediate care; ▪ Acute psychiatric care; ▪ Any other specialty care unit.
1:5	One RN for every five patients in a unit designated as: <ul style="list-style-type: none"> ▪ Rehabilitation; ▪ Skilled nursing. (This includes a hospital unit that has beds registered with ODH as long-term care beds, skilled nursing beds, or special skilled nursing beds.)
1:6	One RN for every six patients in a unit designated as: <ul style="list-style-type: none"> ▪ Postpartum care, with each mother and infant counted separately; ▪ A well-baby nursery.
Ratios specified by ODH Director	In any hospital unit not identified above, one RN for the number of patients designated by the ODH Director.

More stringent RN-to-patient staffing ratios

The bill grants the ODH Director authority to establish RN-to-patient staffing ratios that are more stringent than the ratios described in the table, above.⁹ This authority may be exercised on two conditions:

- That the Director has determined the more stringent ratios are necessary to protect patient safety;
- That the Director has consulted with both the hospital and the RNs affected.

Deadline for complying with staffing ratios

Generally, the bill requires a hospital to implement its RN-to-patient staffing ratios as soon as practicable. This is to be determined by the ODH Director. However, for a hospital that is currently in operation, the following deadlines apply, depending on whether the hospital is in an area the Director has identified as being rural:¹⁰

⁹ R.C. 3722.25(A).

¹⁰ R.C. 3722.24(B) and 3722.25(B).

- Two years after the bill's effective date, for a hospital in a nonrural area;
- Four years after the bill's effective date, for a hospital in a rural area.

Circumstances when staffing ratios do not apply

The bill establishes a number of reasons or situations under which a hospital is not required to comply with the bill's RN-to-patient staffing requirements or any more stringent staffing ratios established by the ODH Director.¹¹ The details for each circumstance are listed below.

A state of emergency. For this provision, the ODH Director must establish criteria for determining what constitutes a state of emergency and how long it exists. Even during a state of emergency, however, a hospital must make prompt and diligent efforts to comply with the established staffing ratios to the greatest extent possible.

Emergency department patient diversions. Any patient who arrives at a hospital's emergency department but is diverted to another hospital for treatment must not be included in calculating the staffing ratio that applies to a patient care unit within the department

Inability to obtain staffing coverage. This provision applies only if a hospital, after consulting with the hospital's nurse staffing committee, is able to document that it made reasonable efforts to obtain and retain the staff necessary to meet the established staffing ratios. These efforts must include all of the following:

- Seeking, from all available qualified staff who are working, individuals who will consent to work additional time;
- Contacting other qualified staff who have made themselves available to work additional time;
- Seeking the use of staff who work on a per diem basis;
- When practical, seeking personnel from a regularly used staffing agency.

Unforeseeable clinical care needs. This provision applies only if an RN is willing to accept the assignment of one or more additional patients because of events the hospital could not have anticipated but could lead to patients suffering life-threatening adverse effects unless a nursing staff assignment is made.

Deviations for brief periods. On an occasional basis, a hospital may deviate from the staffing ratios that apply to a particular patient care unit. The following conditions must be met:

- The deviation must not occur for more than 12 hours;
- No more than six deviations may occur in any 30-day period;
- An RN must not be denied a meal break or rest break as a result of the deviation;

¹¹ R.C. 3722.26.

- Within ten days after a deviation occurs, the manager of the patient care unit must notify the hospital's nurse staffing committee.

Use of innovative care models. Ratio deviations may occur in a patient care unit if the unit is evaluating an innovative model of care that uses clinical care staff who are not RNs. The following conditions must be met:

- The model must use other clinical care staff in place of no more than 50% of the required number of RNs who otherwise would have to be assigned in the unit;
- The model must have been reviewed and approved by a majority of the members of the hospital's nurse staffing committee;
- The model cannot be implemented for more than two years; however, subsequent two-year periods may be reapproved by the nurse staffing committee.

Patient-specific critical care. This provision applies only if a hospital is able to document that a particular patient was admitted to a unit after being transferred from another hospital and required critical care to sustain the patient's life or prevent disability.

Care of patients who meet designated criteria. The following types of patients are not included in any calculation of the staffing ratios that apply to a hospital:

- A patient being discharged from the hospital, while waiting for the discharge to be completed;
- Patients, including those in an emergency department, who are being transferred to other units, but only if the patients are in rooms located near one another while waiting for the transfer to be completed;
- A patient who is receiving care in any of the hospital's outpatient units;
- Any other type of patient designated by the hospital's nurse staffing committee as a type of patient to be excluded from the calculation.

Limits on methods of making RN assignments

The bill establishes limits on how a hospital may make RN assignments to meet the bill's staffing requirements. Under these limits, a hospital prohibited from:¹²

Forgoing RN orientation. A hospital cannot assign an RN unless the nurse has received an orientation that is sufficient to provide competent care in that unit and has demonstrated competence in providing care for that unit. This applies to all RNs who may be assigned to a unit, including nurses from temporary staffing agencies and nurses who relieve other nurses during breaks, meals, and other routine or expected absences.

¹² R.C. 3722.27.

Counting non-direct-care RNs. A hospital cannot include in the staffing calculations any RN who is serving in an administrative or supervisory position.

Using shift averaging. A hospital cannot attempt to meet the staffing requirements by calculating averages of the number of patients in a unit or the number of RNs assigned to the unit during any particular working shift or any other period.

Using video monitoring as staff. A hospital cannot use video monitors or any other electronic means of observing a patient as a means of meeting the staffing requirements.

Imposing mandatory overtime. A hospital cannot impose mandatory overtime on any RN as a means of meeting the bill's staffing requirements.

Standards for hospital patient care

In conjunction with its RN staffing requirements, the bill establishes standards for the provision of patient care. Under these standards, a hospital is prohibited from:¹³

Using video monitoring for patient assessments. A hospital cannot use video monitors or any other electronic means to substitute for the direct observation that is necessary for an RN to conduct proper patient assessments.

Placing patients in units inappropriately. A hospital cannot place a patient for care in a particular unit unless the staffing ratios that apply to the unit are sufficient to meet the level of intensity, type of care, and individual needs of that patient.

Using less intensive ratios in units with adjustable patient acuity. In a unit with adjustable patient acuity levels, a hospital cannot use a staffing ratio that does not meet the ratio for the highest patient acuity level that exists within the unit during a working shift.

Failing to provide additional RN staffing when needed. If an assessment of a patient's acuity level and nursing care plan demonstrates that the patient's care requires staffing that is above the established ratios, the hospital cannot fail to provide additional direct care RNs, licensed practical nurses, and other personnel in accordance with the assessment.

Posting of staffing information in hospital units

The bill requires a hospital to post, in each of its patient care units, a uniform notice that explains the bill's staffing requirements.¹⁴ For each working shift in a unit, the hospital must include with the uniform notice a posting of both of the following:

- A description of the RN-to-patient staffing ratio that applies to the unit;
- The actual number and titles of the direct care RNs who are assigned during the shift.

¹³ R.C. 3722.28.

¹⁴ R.C. 3722.29.

The uniform notice and shift-specific information must be prepared in a manner prescribed by the ODH Director. The notice and information must be posted in an area of the unit that is visible, conspicuous, and accessible to the hospital's staff, its patients, and the public.

Documentation system and access to records

The bill requires a hospital to develop a system to document how it meets the bill's staffing requirements. Through this system, the hospital must maintain records of each of the following for at least three years:¹⁵

- The RN staffing notice that the bill requires to be posted for every working shift in each hospital unit;
- The actual staffing levels that occurred;
- Information certifying whether each RN assigned to a unit received rest and meal breaks during a working shift. This must include the identities of the individuals who relieved the nurses during the breaks.

On request, the records in the documentation system must be made available to the ODH Director, any RN, or any member of the public. For an RN who is a public employee, the bill specifies that the records also must be given to the employee organization that serves as the RN's collective bargaining representative.¹⁶

RN rights relative to staffing matters; retaliation prohibited

The bill authorizes an RN to object to or refuse to participate in any hospital unit staffing activity, policy, practice, assignment, or task if the nurse reasonably believes either of the following:¹⁷

- That the hospital is violating the bill's staffing requirements;
- That the RN is not prepared – by education, training, or experience – to participate in the staffing matter, and that by participating, patient safety would be compromised or the RN would be subject to disciplinary action by the Ohio Board of Nursing.

The bill prohibits the hospital from taking any retaliatory action against an RN who exercises this authority. For example, a hospital cannot retaliate by filing a complaint or report against the RN with the Board.¹⁸

¹⁵ R.C. 3722.30(A).

¹⁶ R.C. 3722.30(B); see also R.C. 4117.01 and 4117.05, not in the bill.

¹⁷ R.C. 3722.32(A).

¹⁸ R.C. 3722.32(B).

If a hospital takes retaliatory action, the bill specifies that the RN has a cause of action in court against the hospital. In addition, the RN may submit a complaint to ODH under the bill's complaint procedure.¹⁹

Prohibitions

Under the bill, a hospital is prohibited from knowingly doing any of the following:²⁰

- Failing to develop and implement a staffing plan in accordance with the bill;
- Failing to comply with the staffing plan once it has been implemented;
- Failing to comply in any other manner with the bill's requirements for RN staffing.

As described earlier, there are a number of reasons that a hospital is not subject to the bill's general RN staffing requirements. The bill clarifies that its prohibitions do not apply in those cases, including when there is a state of emergency.²¹

Corrective action plan

If the ODH Director determines that a hospital is engaging in a prohibited activity, the Director must require the hospital to establish a corrective action plan. The plan must be submitted to the Director and is subject to the Director's approval. The Director may request the plan to be revised, and the hospital must revise it accordingly.²²

Fines

If a corrective action plan does not resolve a violation, the bill authorizes the ODH Director to impose a fine. The Director's action must be taken through an adjudication under the Administrative Procedure Act (R.C. Chapter 119).²³

The amount of the fine to be imposed is differentiated according to whether it applies to the hospital as a business entity or to an individual who is a hospital employee. The maximum fine amounts are set as follows:²⁴

- \$25,000 for a first offense by a hospital, and \$50,000 for each subsequent offense;
- \$20,000 for each offense committed by an employee.

¹⁹ R.C. 3722.32(C).

²⁰ R.C. 3722.34(A).

²¹ R.C. 3722.34(B).

²² R.C. 3722.35(A).

²³ R.C. 3722.35(B).

²⁴ R.C. 3722.35(B)(1).

The Attorney General is charged with collecting any fines that remain unpaid. This is to occur on request of the ODH Director and through a civil action brought by the Attorney General.²⁵

The fines are to be used as additional funds for the existing Nurse Education Assistance Program (described below), and must be deposited in the state treasury for that purpose.²⁶

ODH audits of hospital staffing and records

The bill requires the ODH Director to conduct audits of a hospital to determine whether it is implementing its staffing plan appropriately and whether it is maintaining records in its documentation system as required. An audit must be conducted at least every two years. Additional audits may be conducted at any time the Director considers necessary for proper enforcement of the bill.²⁷

Complaints procedures; toll-free number for reports

The bill requires the ODH Director to establish complaint procedures regarding violations of the bill's requirements. The procedures may be used by an RN, hospital patient, or any other person. When a complaint is received, the Director must conduct an investigation. If it is determined that a violation occurred, the Director must take disciplinary action, as authorized by the bill.²⁸

In a related matter, when a patient is admitted for inpatient care, the bill requires a hospital to provide information on ODH's existing toll-free patient safety telephone line. The number may be used by the patient, or the patient's representative, to (1) seek information regarding the bill's staffing requirements and other provisions or (2) make reports of inadequate staffing or care.²⁹

Hospital retaliation and discrimination – general prohibitions

In addition to the bill's provisions that apply expressly to RNs regarding retaliation by hospitals, the following prohibitions on hospitals apply in the case of both RNs and others:³⁰

- A hospital must not discriminate or retaliate in any manner against an RN, hospital patient, or any other person who, in good faith, files a complaint with ODH under the bill's complaint procedures, presents a grievance to the hospital regarding its staffing, or otherwise demonstrates opposition to any hospital policy, practice, or action that violates the bill's staffing requirements.

²⁵ R.C. 3722.35(B)(2).

²⁶ R.C. 3722.35(C).

²⁷ R.C. 3722.33.

²⁸ R.C. 3722.36.

²⁹ R.C. 3722.31; see also R.C. 3701.91, not in the bill.

³⁰ R.C. 3722.37.

- A hospital must not interfere with, restrain, or prohibit a person’s exercise of, or attempt to exercise, any of the rights conferred by the bill.
- A hospital must not establish policies that, directly or indirectly, discourage an RN or any other person from disclosing information as authorized by the bill.
- A hospital must not intimidate an RN or any other person who makes public statements regarding hospital staffing.

Legislative recognitions and findings regarding RNs

Regarding the practice of registered nursing and its relationship to the bill’s hospital staffing requirements, the bill states that the General Assembly recognizes that all RNs have the following duties and rights:³¹

- To act based on their professional judgment and according to RN statutes and rules;
- To provide care in the exclusive interests of their patients;
- To act as advocates for their patients.

In recognizing these duties and rights, the bill states that the General Assembly finds that an RN, before accepting a patient assignment, is responsible for determining the following:³²

- Whether the RN has the necessary professional knowledge, judgment, skills, and ability to care for the patient;
- Whether the RN is competent to provide the required care;
- Whether accepting the assignment would create harm for either the patient or the RN.

NURSING STUDENT FINANCIAL ASSISTANCE

Nursing Student Loan-to-Grant Program

The bill establishes a new nursing student financial assistance program, to be known as the Nursing Student Loan-to-Grant Program. The program is created in the Ohio Department of Higher Education and is to be administered by the Chancellor of Higher Education.³³

The program is a system under which a nursing student who receives a loan from the program may have the loan converted into a grant, which would not have to be repaid, as long as the recipient fulfills a five-year service obligation. For FY 2024 and FY 2025, the bill appropriates \$10 million each year, for a total of \$20 million.³⁴

³¹ R.C. 3722.38(A).

³² R.C. 3722.38(B).

³³ R.C. 3333.27.

³⁴ Sections 5, 6, 7, and 8.

Eligible applicants and award amounts

Under the program, a nursing student who is enrolled in a prelicensure nursing education program for RNs may apply to be an award recipient. The RN prelicensure program must be one that is approved by the Ohio Board of Nursing.³⁵

Eligibility and amounts to be awarded are subject to the following:³⁶

- An applicant may submit only one application each year.
- If an application is approved, the amount awarded cannot exceed \$3,000.
- An award recipient may apply for additional awards in subsequent years, with each additional award not to exceed \$3,000.
- An applicant may receive a maximum of four awards.

Five-year service obligation

Until an award recipient completes the service obligation required by the program, the total amount received is considered a loan subject to repayment. Once the service obligation is completed, the amount is considered a grant and is no longer subject to repayment.³⁷

The service obligation may be fulfilled by doing any of the following:³⁸

- Practicing as a direct-care RN in a hospital (which, beginning on September 30, 2024, must be licensed by ODH).
- Practicing as a direct-care RN in a nursing home or residential care facility (assisted living);
- Serving in Ohio as a faculty member in a prelicensure nursing education program for RNs.

Application form

The Chancellor is required to establish an application form and procedures to be followed by an applicant. The bill requires an applicant to certify that a good faith effort will be made to become licensed and employed as necessary to begin fulfilling the program's service obligation as soon as practicable following completion of the highest level of education being sought.³⁹

³⁵ R.C. 3333.27(A); see also R.C. 4723.06, not in the bill.

³⁶ R.C. 3333.27(D).

³⁷ R.C. 3333.27(A).

³⁸ R.C. 3333.27(B).

³⁹ R.C. 3333.27(C).

The Chancellor must review each application received. If the applicant is found to be eligible and there are sufficient funds, the Chancellor is required to award the amount authorized by the bill.

Monitoring award recipients

The Chancellor must establish procedures for determining whether an award recipient is making good faith effort to begin fulfilling the recipient's service obligation as soon as practicable following completion of the highest level of education being sought. Similarly, the Chancellor must establish procedures for monitoring the progress that an award recipient is making toward fulfilling the service obligation once the necessary employment has commenced.⁴⁰

Seeking repayment

The Chancellor is required to seek repayment of any amount awarded under the program that remains a loan because the recipient has failed to fulfill the required service obligation. On the Chancellor's request, the Attorney General is required, through a civil action, to collect any amount that remains unpaid.⁴¹

State treasury fund

The bill creates the Nursing Student Loan-to-Grant Fund in the state treasury. The fund is to consist of appropriations by the General Assembly. Money in the fund must be used only for awarding amounts to nursing students under the program.⁴²

Nurse Education Assistance Program

As noted above, fines imposed on hospitals for violating the bill's RN staffing requirements are to be used for the existing Nurse Education Assistance Program. The program, which is administered by the Chancellor of Higher Education with assistance from the Ohio Board of Nursing, makes loans to nursing students in prelicensure and postlicensure nursing education programs.⁴³ It is currently funded through a portion of the license fees paid by RNs and licensed practical nurses.⁴⁴

The bill provides for the fines on hospitals to be deposited in the existing Nurse Education Assistance Fund. It specifies that the fines cannot be used for administrative costs. It also specifies that the portion of the licensure fees currently used for the program's administrative costs cannot be increased.⁴⁵

⁴⁰ R.C. 3333.27(E).

⁴¹ R.C. 3333.27(F).

⁴² R.C. 3333.27(G).

⁴³ R.C. 3333.28.

⁴⁴ R.C. 4723.08 and 4743.05, not in the bill.

⁴⁵ R.C. 3333.28(B).

The bill makes a number of technical corrections in the statute governing the program.

HISTORY

Action	Date
Introduced	10-02-23
