

HOUSE BILL No. 2258

By Committee on Health and Human Services

2-2

9 AN ACT concerning health care; establishing the patient safety act;
10 amending K.S.A. 65-430 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. This act shall be known as and may be cited as the
14 patient safety act.

15 New Sec. 2. For the purposes of this act, unless the context clearly
16 shows otherwise:

17 (a) "Acuity-based patient classification system" means a standardized
18 set of criteria based on scientific data that acts as a measurement instru-
19 ment which predicts registered nursing care requirements for individual
20 patients based upon severity of patient illness, need for specialized equip-
21 ment and technology, intensity of nursing interventions required and the
22 complexity of clinical nursing judgment needed to design, implement and
23 evaluate the patient's nursing care plan consistent with professional stan-
24 dards of care; details the amount of registered nursing care needed, both
25 in number of direct-care registered nurses and skill mix of nursing per-
26 sonnel required on a daily basis for each patient in a nursing department
27 or unit and is stated in terms that readily can be used and understood by
28 direct-care registered nurses. The acuity system criteria shall take into
29 consideration the patient care services provided not only by registered
30 nurses but also by licensed practical nurses and other health care
31 personnel.

32 (b) "Assessment tool" means a measurement system which compares
33 the registered nurse staffing level in each nursing department or unit
34 against actual patient nursing care requirements in order to review the
35 accuracy of an acuity system.

36 (c) "Board" means the state board of nursing.

37 (d) "Department" means the department of health and environment.

38 (e) "Direct-care registered nurse" means a registered nurse who has
39 accepted direct responsibility and accountability to carry out medical reg-
40 imens, nursing or other bedside care for patients.

41 (f) "Facility" means a hospital licensed pursuant to the general laws,
42 and licensed private or state-owned and operated general acute care hos-
43 pital, an acute psychiatric hospital, a specialty hospital or any acute care

- 1 unit within a state operated facility.
- 2 (g) "Couplet" means a mother and baby.
- 3 (h) "Secretary" means the secretary of health and environment.
- 4 (i) "Triage" means assessment of patients to determine priority of
5 treatment.
- 6 (j) "Nursing care" means care which falls within the scope of practice
7 as prescribed by state law or otherwise encompassed within recognized
8 professional standards of nursing practice, including assessment, nursing
9 diagnosis, planning, intervention, evaluation and patient advocacy.
- 10 (k) "Ratio" means the actual number of patients to be assigned to
11 each direct-care registered nurse.
- 12 New Sec. 3. (a) This act applies to any facility that receives federal
13 medicare or medicaid funds or is a federally operated facility.
- 14 (b) Each facility shall incorporate and maintain the following mini-
15 mum direct-care registered nurse-to-patient ratios:
- 16 (1) Intensive care unit 1:2
17 Critically unstable 1:1
18 ICU recovery 1:1
- 19 (2) Critical care unit 1:2
- 20 (3) Neonatal intensive care 1:2
- 21 (4) Burn unit 1:2
- 22 (5) Emergency room (Triage registered nurses not counted in ratios)
23 General 1:3
24 Critical care 1:2
25 Trauma 1:1
- 26 (6) Operating room/Post anesthesia care unit
27 Under anesthesia 1:1
28 Post anesthesia 1:2
- 29 (7) Step-down/Telemetry/Progressive care 1:4
- 30 (8) Labor and delivery
31 Active labor 1:1
32 Immediate postpartum 1:1 (time two hours)
33 Postpartum 1:4 (4 couplets)
- 34 (9) Intermediate care nursery 1:4
- 35 (10) Well-baby nursery 1:6
- 36 (11) Pediatrics 1:4
- 37 (12) Psychiatric 1:5
- 38 (13) Medical/Surgical 1:5
- 39 (14) Observation/Outpatient treatment 1:4
- 40 (15) Transitional care 1:5
- 41 (16) Rehabilitation unit 1:5
- 42 (17) Specialty care unit 1:4
- 43 Any unit not otherwise listed above shall be considered a specialty unit.

- 1 (c) The ratios required by this section shall constitute the minimum
2 number of direct-care registered nurses. Additional direct-care registered
3 nurses shall be added and the ratio adjusted to ensure direct-care regis-
4 tered nurse staffing in accordance with an approved acuity-based patient
5 classification system. Nothing herein shall preclude any facility from in-
6 creasing the number of direct-care registered nurses nor shall the require-
7 ments set forth supercede or replace any requirements otherwise man-
8 dated by law, regulation or collective bargaining contract so long as the
9 facility meets the minimum requirements of subsection (b).
- 10 (d) For purposes of compliance with the minimum registered nurse
11 staffing requirements set forth in subsection (b), no registered nurse shall
12 be assigned or be included in the count of assigned registered nursing
13 staff in a nursing department, unit or clinical area within the health facility
14 unless that registered nurse has an appropriate orientation in that clinical
15 area sufficient to provide competent nursing care to the patients in that
16 area and has demonstrated current competence in providing care in that
17 area.
- 18 (e) The setting of staffing standards for registered nurses is not to be
19 interpreted as justifying the understaffing of other critical health care
20 workers, including licensed practical nurses and certified nursing assis-
21 tants. The availability of these other health care workers enables regis-
22 tered nurses to focus on the nursing care functions that only registered
23 nurses, by law, are permitted to perform and thereby helps to ensure
24 adequate staffing levels.
- 25 New Sec. 4. (a) The secretary shall adopt rules and regulations to
26 implement and administer the purposes and provisions of this act includ-
27 ing, but not limited to rules and regulations that:
- 28 (1) Define terms and prescribe the process for establishing a stan-
29 dardized acuity-based patient classification system;
- 30 (2) require that a registered nurse executive leader in each facility be
31 responsible for the overall execution of resources to ensure sufficient
32 registered nurse staffing is provided by said facility; and
- 33 (3) require that a full-time registered nurse executive be designated
34 by each facility to be responsible for the overall quality assurance of nurs-
35 ing care as provided by the facility.
- 36 (b) The secretary shall develop an accessible and confidential system
37 for reporting failure to comply with the requirements of this act and
38 provide for public access to information regarding reports of inspections,
39 results, deficiencies and corrections under this act by July 1, 2006.
- 40 (c) The department shall develop a standardized acuity-based patient
41 classification system to be utilized by all facilities to increase the number
42 of direct-care registered nurses to meet patient needs by the nurse-to-
43 patient ratios by July 1, 2006.

1 New Sec. 5. (a) As a condition of licensing, each facility shall submit
2 annually to the department a prospective staffing plan together with a
3 written certification that the staffing plan is sufficient to provide adequate
4 and appropriate delivery of health care services to patients for the ensuing
5 year and accomplishes the following:

- 6 (1) Meets the minimum direct-care registered nurse-to-patient ratio
7 requirements of subsection (b) of section 3, and amendments thereto;
- 8 (2) employs the acuity-based patient classification system for address-
9 ing fluctuations in patient acuity levels requiring increased registered
10 nursing staffing levels above minimums set forth in subsection (b) of
11 section 3, and amendments thereto;
- 12 (3) provides for orientation of registered nursing staff appropriate for
13 their clinical practice area;
- 14 (4) includes other unit or department duties such as discharges, trans-
15 fers and admissions, administrative and support roles that are expected
16 to be done by the direct-care registered nurse in addition to direct nursing
17 care; and
- 18 (5) submits the assessment tool used to validate the acuity system
19 relied upon in the plan.

20 (b) As a condition of licensing, each facility annually shall submit to
21 the department an audit of the preceding year's staffing plan. The audit
22 shall compare the staffing plan with measurements of actual staffing as
23 well as measurements of actual acuity for all units within the facility. The
24 audit shall demonstrate the facility's actual compliance with the five
25 requirements imposed by this section relating to the prospective staffing
26 plan.

27 (c) As a condition of licensing, a facility required to have a staffing
28 plan under this act shall:

- 29 (1) Prominently post on each unit the daily written nurse staffing plan
30 in a clearly visible place to reflect the number of registered nurse-to-
31 patient ratio that is directly responsible for patient care as a means of
32 consumer information and protection; and
- 33 (2) provide each patient or family member or both with a toll-free
34 hotline number for the department of health and environment which may
35 be used to report inadequate registered nurse staffing. Complaints shall
36 cause an investigation by the department within 24 hours to determine
37 whether any violation of law by the facility has occurred.

38 New Sec. 6. (a) Any facility that fails to anticipate, design, maintain
39 or adhere to a daily written nurse staffing plan in accordance with the
40 provisions of this act or any rule or regulation promulgated hereunder
41 shall be subject to a fine of not more than \$25,000.00 for each violation.
42 Each day such violation occurs or continues shall be deemed a separate
43 offense. These penalties shall be in addition to any other penalties pre-

1 scribed by law. The department shall coordinate the enforcement related
2 activities.

3 (b) The civil penalty may be assessed in an action brought on behalf
4 of the state or on behalf of a patient or resident aggrieved hereunder in
5 any court of competent jurisdiction.

6 (c) Fines relative to such violations shall be collected and placed in
7 the state general fund.

8 (d) Each facility found in violation of sections 1 through 6, and
9 amendments thereto, must prominently post its violation notice within
10 each unit found in violation. Copies of the notice shall be posted by the
11 facility immediately upon receipt and maintained for 60 consecutive days,
12 or until the violation is remedied, in conspicuous places including all
13 places where notices to employees are customarily posted. Reasonable
14 steps shall be taken by the facility to ensure that the notices are not
15 altered, defaced or covered by any other material. The department will
16 post all violation notices on its website immediately after finding a vio-
17 lation. Then a notice of violation shall remain on the department's website
18 for 60 consecutive days or until such violation is rectified.

19 Sec. 7. K.S.A. 65-430 is hereby amended to read as follows: 65-430.
20 The licensing agency may deny, suspend or revoke a license in any case
21 in which it finds that there has been a substantial failure to comply with
22 the requirements established under this law, a failure to report any in-
23 formation required to be reported by K.S.A. 65-28,121 or 65-4216 and
24 amendments to such sections, ~~or~~ a failure to maintain a risk management
25 program as required by K.S.A. 65-4922 and amendments thereto, *or a*
26 *failure to comply with the provisions of section 5, and amendments*
27 *thereto*, after notice and an opportunity for hearing to the applicant or
28 licensee in accordance with the provisions of the Kansas administrative
29 procedure act.

30 Sec. 8. K.S.A. 65-430 is hereby repealed.

31 Sec. 9. This act shall take effect and be in force from and after its
32 publication in the statute book.