

S.F. No. 1561 – The Keeping Nurses at the Bedside Act of 2023 (as amended by the A-3 amendment)

Author: Senator Erin Murphy

Prepared by: Liam Monahan, Legislative Analyst (651/296-1791)

Date: March 7, 2023

ARTICLE 1 - KEEPING NURSES AT THE BEDSIDE ACT

Section 1. **TITLE.** Specifies that this act may be known as the Keeping Nurses at the Bedside Act.

ARTICLE 2 - HOSPITAL STAFFING

Section 1. **(144.653, subdivision 5) Correction orders.** Modifies the existing authority of the commissioner of health to enforce hospital regulations by adding the authority to enforce hospital staffing committee requirements established under this article.

Section 2. **[144.7051 DEFINITIONS]** Defines “concern for safe staffing form,” commissioner,” “daily staffing schedule,” “direct-care registered nurse,” and “hospital.”

Section 3. **[144.7053 HOSPITAL NURSE STAFFING COMMITTEE]**

Subdivision 1. **Hospital nurse staffing committee required.** Requires each licensed hospital to create a hospital nurse staffing committee.

Subd. 2. **Staffing committee membership.** Specifies that 35% of the membership of the hospital nurse staffing committee must be direct care registered nurses, 15% must be other direct care staff, and 50% must be appointed by the hospital.

Subd. 3. **Staffing committee compensation.** Requires hospitals to count employee time spent on committee business as work time and compensate all members at their normal wage rate.

Subd. 4. **Staffing committee meeting frequency.** Requires the committee to meet at least quarterly.

Subd. 5. **Staffing committee duties.** Specifies the duties of the committee, which include creating a written core staffing plan to guide the creation of daily staffing schedules for each inpatient care unit of the hospital.

Section 4. [144.7054 HOSPITAL NURSE WORKLOAD COMMITTEE]

Subdivision 1. **Hospital nurse workload committee required.** Requires each hospital to establish a nurse workload committee for each inpatient care unit of the hospital.

Subd. 2. **Workload committee membership.** Specifies that 35% of the membership of each nurse workforce committee must be direct care registered nurses who are typically assigned to the unit, 15% must be other direct care staff typically assigned to the unit, and 50% must be appointed by the hospital.

Subd. 3. **Workload committee compensation.** Requires hospitals to count employee time spent on committee business as work time and compensate all members at their normal wage rate.

Subd. 4. **Workload committee meeting frequency.** Requires each nurse workforce committee to meet at least monthly whenever the committee is in possession of an unresolved concern for safe staffing form.

Subd. 5. **Workload committee duties.** Specifies the duties of nurse workforce committees, which include resolving staffing issues on the unit that arise from violations of the hospital's core staffing plan and creating a dispute resolution process that includes an option for arbitration.

Section 5. (144.7055 HOSPITAL CORE STAFFING PLAN)

Subdivision 1. **Definitions.** Modifies the definition of "core staffing plan" and "inpatient care unit" and deletes an unused term.

Subd. 2. **Hospital core staffing plans.** Modifies the existing requirement that every hospital develop a core staffing plan by transferring responsibility for creating the staffing plan from the chief nursing executive to the hospital nurse staffing committee and specifies the required content of the staffing plan, which includes defining the maximum number of patients on each unit for whom a nurse can typically care for safely.

Subd. 2a. **Development of hospital core staffing plans.** Specifies the criteria the hospital nurse staffing committee must consider when developing the hospital's core staffing plan, which include unit-specific patient acuity, unit-specific demands on direct care staff's time, design features of the unit, and procedures for identifying additional staffing as required.

Subd. 2b. **Failure to develop hospital core staffing plans.** Requires the hospital staffing committee to enter into expedited arbitration if the committee cannot agree on a core staffing plan and requires that the arbitrator understand patient care needs.

Subd. 2c. **Objections to hospital core staffing plans.** Permits a hospital that objects to a core staffing plan adopted by a hospital nurse staffing committee to elect to attempt to amend the plan through arbitration.

Subd. 2d. **Mandatory submission of core staffing plan to commissioner.** Requires each hospital to submit to the commissioner of health the core staffing plan approved by the nurse staffing committee.

Subd. 3. **Standard electronic reporting developed.** Deletes obsolete language and maintains the requirement that the Minnesota Hospital Association continue to post on its website the actual direct patient care hours per patient and per unit.

Section 6. [144.7056 IMPLEMENTATION OF HOSPITAL CORE STAFFING PLANS]

Subdivision 1. **Plan implementation required.** Requires each hospital to implement the hospital core staffing plan adopted by its hospital nurse staffing committee.

Subd. 2. **Public posting of core staffing plans.** Requires each hospital to publicly post in each unit the core staffing plan for that unit.

Subd. 3. **Public posting of compliance with plan.** Requires hospitals to publicly post in each unit whether the unit is currently in compliance with its core staffing plan for that unit.

Subd. 4. **Posting of compliance in patient rooms.** Requires hospitals to post in each patient's room the number of patients that should be assigned to each nurse on the unit according to the core staffing plan for the unit and the number of patients each nurse is currently assigned.

Subd. 5. **Deviations from core staffing plans.** Requires hospital management to receive agreement from at least 50% of the nurses on the unit before lowering the staffing levels on a unit and specifies that the agreement of 50% of the nurses does not constitute compliance with the core staffing plan.

Subd. 6. **Public posting of emergency department wait times.** Requires each hospital to post on its website and in its emergency department the approximate waiting time for patients who are not in critical need of emergency care.

Subd. 7. **Disclosure of staffing plan upon admission.** Requires a hospital to provide an explanation of its core staffing plan to patients upon admission.

Subd. 8. **Public distribution of core staffing plan and notice of compliance.** Requires hospitals to make written copies of its core staffing plan available upon request.

Subd. 9. **Reporting noncompliance.** Permits any employee, patient, or family member of a patient to submit a concern for safe staffing form; prohibits the hospital from retaliating against an employee who submits a concern for safe staffing form; and authorizes the commissioner of labor and industry to impose fines on any hospital the commissioner determines has retaliated against an employee for submitting a concern for safe staffing form.

Subd. 10. **Documentation of compliance.** Requires hospitals to maintain documentation of compliance with the hospital's core staffing plan, retain it for five years, and permit the hospital's nurse staffing committee to access the documentation.

Section 7. [144.7057 HOSPITAL NURSE STAFFING REPORTS]

Subdivision 1. **Nurse staffing report required.** Requires each hospital to submit to the commissioner a quarterly staffing report.

Subd. 2. **Nurse staffing report.** Specifies the required elements of the quarterly staffing report, including the hospital's compliance with its staffing plan, an analysis of compliance trends at the hospital, and action plans to address instances of noncompliance.

Subd. 3. **Public posting of nurse staffing reports.** Requires each hospital to post on its website a copy of the staffing report submitted to the commissioner.

Subd. 4. **Standardized reporting.** Requires the commissioner of health to develop a standard format for the staffing report.

Subd. 5. **Penalties.** Authorizes the commissioner to exercise the commissioner's existing authority to regulate hospitals to impose immediate fines on a hospital that fails to report any instance of the hospital accepting an elective surgery at a time when the unit performing the surgery is out of compliance with its core staffing plan.

Section 8. [144.7058 GRADING OF COMPLIANCE WITH CORE STAFFING PLANS]

Subdivision 1. **Grading compliance with core staffing plans.** Requires the commissioner of health to develop a uniform annual grading system that evaluates each hospital's compliance with its own core staffing plan.

Subd. 2. **Grading factors.** Specifies the criteria the commissioner must consider when developing the grading system, including the prevalence of violent incidents in the hospital; prevalence of infections, pressure ulcers, and falls; wait times in emergency departments; prevalence of overtime; and frequency and extent of noncompliance with a staffing plan.

Subd. 3. **Public disclosure of compliance grades.** The commissioner of health must publish on the Department of Health website a compliance grade for each hospital.

Section 9. [144.7059 RETALIATION AGAINST NURSES PROHIBITED]

Subdivision 1. **Definitions.** Defines "emergency," "nurse," and "taking action against."

Subd. 2. **Prohibited actions.** Prohibits hospitals and certain other health care facilities from discharging, disciplining, or threatening a nurse, or reporting a nurse to the Board of Nursing solely on the grounds that the nurse fails to accept an assignment of one or more additional patients because the nurse determines that accepting an additional patient assignment, in the nurse's judgment, may create an unnecessary danger to a patient's life, health, or safety or may otherwise constitute grounds for disciplinary action by the Board of Nursing.

Subd. 3. **State nurses.** Specifies that this section applies to all nurses employed by the state no matter the setting in which the nurse works.

Subd. 4. **Collective bargaining rights.** Protects a nurse's rights under any collective bargaining agreement.

Subd. 5. **Emergency.** Creates an exception under this section for situations when replacement staff are not able to report for duty for the next shift, or a period of increased patient need because of unusual, unpredictable, or unforeseen circumstances, including but not limited to an act of terrorism, a disease outbreak, adverse weather conditions, or a natural disaster, that impacts continuity of patient care.

Subd. 6. **Enforcement.** Authorizes the commissioner of labor and industry to impose fines on a hospital the commissioner determines has violated this section.

Section 10. **INITIAL IMPLEMENTATION OF THE KEEPING NURSES AT THE BEDSIDE ACT.** Requires hospitals to form hospital nurse staffing committees by October 1, 2024, to implement core staffing plans by October 1, 2025, and begin submitting nurse staffing reports to the commissioner of health by January 1, 2026.

Section 11. **APPROPRIATION; HOSPITAL STAFFING.**

Section 12. **REVISOR INSTRUCTION.**

ARTICLE 3 - WORKPLACE VIOLENCE PREVENTION

Section 1. **(144.566 VIOLENCE AGAINST HEALTH CARE WORKERS)**

Subdivision 1. **Definitions.** Adds a definition of “workplace violence hazard.”

Subd. 2. **Action plans and action plan reviews required.** Modifies an existing requirement that hospitals have preparedness and incident response action plans to acts of violence by requiring that the hospital update the plans at least annually, that the plan be in writing, and that the plan be made available to health care workers at all times.

Subd. 3. **Action plan committees.** Makes conforming changes.

Subd. 4. **Required elements of action plans; generally.** Specifies the general requirements of all action plans with respect to development, implementation, and compliance measures.

Subd. 5. **Required elements of action plans; evaluation of risk factors.** Specifies that action plans must incorporate an evaluation of workplace violence hazards.

Subd. 6. **Required elements of action plans; review of workplace violence incidents.** Requires action plans to include procedures for evaluating instances of workplace violence.

Subd. 7. **Required elements of action plans; reporting workplace violence.** Requires actions plans to contain policies and procedures related to reporting and investigating incidents of workplace violence, and protecting employees from retaliation or other punitive actions that could create a disincentive to report workplace violence.

Subd. 8. **Required elements of action plans; coordination with other employers.** Requires action plans to include policies and procedures for coordination between the hospital and other employers and their employees who work in the hospital, including coordination regarding required training.

Subd. 9. **Required elements of action plans; white supremacist affiliation and support prohibited.** Requires hospitals to adopt policies that prohibit security personnel employed by the hospital or assigned to the hospital by a contractor from affiliating with white supremacist groups.

Subd. 10. **Required elements of action plans; training.** Requires action plans to include policies and procedures regarding the development and provision of training with regards to workplace violence prevention and response.

Subd. 11. **Training required.** Modifies existing duties of hospitals to provide training to health care employees regarding safety during and responses to workplace violence.

Subd. 12. **Annual review and update of action plans.** Modifies existing requirements that hospitals review action plans annually by expanding the topics that must be reviewed to include, for example, security risks and workplace violence hazards in particular units or areas of the hospital, staffing patterns that may contribute to increased risk of workplace violence, and instances of discrimination by security personnel.

Subd. 13. **Action plan updates.** Requires hospitals to update action plans based on the annual review to reflect corrective actions the hospital will take to mitigate hazards identified in the review.

Subd. 14. **Requests for additional staffing.** Requires hospitals to create and implement a procedure for health care workers to officially request additional staffing; requires the hospital to document all such requests; requires the hospital to provide a written explanation for all denied requests; requires the hospital to make the staffing request documentation available to the commission of health; and authorizes the commissioner of health to use the documentation while enforcing the requirements of this section.

Subd. 15. **Disclosure of action plans.** Modifies an existing requirement that hospitals make their action plans available to certain parties by removing the requirement that the plan be provided to law enforcement but adding that the plan be made available directly to health care workers, and not merely through the workers' exclusive bargaining representatives. Also requires the hospital to submit its action plan and most recent annual review to the commissioner of health.

Subd. 16. **Legislative report required.** Requires the commissioner of health to compile the information contained in each hospital's action plan and most recent annual review into a report to the legislature.

Subd. 17. **Interference prohibited.** Makes a technical change to an existing requirement.

Subd. 18. **Penalties.** Modifies existing authority of the commissioner of health to enforce this section by increasing the upper limit of the fine from \$250 to \$10,000.

Section 2. **APPROPRIATION; PREVENTION OF VIOLENCE IN HEALTH CARE.**

ARTICLE 4 - PIPELINE TO REGISTERED NURSE DEGREES

Section 1. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES.** Clarifies that child care expenses incurred by a nursing facility scholarship recipient while earning a wage working at the facility are allowable costs.

ARTICLE 5 - NURSE LOAN FORGIVENESS

Section 1. **(144.1501, subdivision 1) Definitions.** Creates definitions for “hospital nurse” and “PSLF program” for the purposes of the health professional education loan forgiveness program.

Section 2. **(144.1501, subdivision 2) Creation of account.** Adds forgiving the loans of participants in the federal Public Service Loan Forgiveness (PSLF) program who agree to work in nonprofit hospitals providing direct care to the allowable purposes under the health professional education loan forgiveness program.

Section 3. **(144.1501, subdivision 3) Eligibility.** Creates an additional eligibility category for the health professional education loan forgiveness program for nurses who are participants in the PSLF program and agree to be hospital nurses; clarifies that nurses who agree to teach are required to agree to teach for two years.

Section 4. **(144.1501, subdivision 4) Loan forgiveness.** Specifies the terms of the loan forgiveness for hospital nurses participating in the PSLF program and for nurses who agree to teach.

Section 5. **(144.1501, subdivision 5) Penalty for nonfulfillment.** Specifies the conditions under which a hospital nurse participating in the PSLF program and receiving loan forgiveness under this section could fail to fulfill the nurse’s obligations under this section.

Section 6. **(144.608, subdivision 1) Trauma Advisory Council established.** Makes conforming changes.

Section 7. **(147A.08) EXEMPTIONS.** Makes conforming changes.

Section 8. **APPROPRIATION; HOSPITAL NURSING LOAN FORGIVENESS.** Appropriates \$5,000,000 per year ongoing specifically for the hospital nurses portion of the health professional education loan forgiveness program.

Section 9. **APPROPRIATION; LOAN FORGIVENESS FOR NURSING INSTRUCTORS.** Appropriates an unspecified amount per year for the nursing instruction portion of the health professional education loan forgiveness program.

ARTICLE 6 - REPORT ON HOSPITAL STAFFING

Section 1. **(144.7067, subdivision 1) Establishment of reporting system.** Modifies the existing adverse events reporting system by adding a requirement that hospitals report whether the unit in which an adverse event took place was in compliance with the hospital’s core staffing plan at the time of the adverse event.

Section 2. **DIRECTION TO COMMISSIONER OF HEALTH; DEVELOPMENT OF ANALYTICAL TOOLS.** Requires the commissioner of health to collaborate with the Minnesota Nurses Association and others to develop analytical tools to investigate causal links between understaffing in inpatient hospital units and adverse events.

Section 3. **DIRECTION TO COMMISSIONER OF HEALTH; NURSING WORKFORCE REPORT.** Requires the commissioner of health to publish a report on the current status of the state's nursing workforce employed by hospitals.

Section 4. **APPROPRIATION; HOSPITAL STAFFING STUDY.**

ARTICLE 7 - MENTAL HEALTH SERVICES FOR NURSES

Section 1. **APPROPRIATION; IMPROVING MENTAL HEALTH OF HEALTH CARE WORKERS.** Appropriates \$10,000,000 per year ongoing for competitive grants to hospitals and others to fund programs dedicated to improving the mental health of health care professionals.