

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1186

INTRODUCER: Senator Rich

SUBJECT: Decisionmaking in health care

DATE: March 31, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Pre-meeting
2.			JU	
3.			HA	
4.				
5.				
6.				

I. Summary:

The bill creates the Patients' Right-to-Know Act to improve health care in the state by providing information concerning the financial health, staffing levels, and safety of hospitals in Florida. The bill defines terms used in the Act and requires the Agency for Health Care Administration (Agency) to publish and disseminate information about hospitals related to Occupational Safety and Health Administration (OSHA) violations, the vacancy rate and turnover rate for registered nurses (RN), results of the Consumer Assessment of Healthcare Providers and Systems hospital survey, complaints to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Agency, specific average daily staffing levels for registered nurses, licensed practical nurses (LPN), and certified nursing assistants (CNA), and the percentage of nursing hours that are completed by non-employee nurses in various hospital units.

This bill amends section 408.063, Florida Statutes, and creates two undesignated sections of law.

II. Present Situation:

Hospitals are licensed and regulated by the Agency under ch. 395, F.S., the general licensure provisions of part II, ch. 408, F.S., and administrative rules in Chapter 59A-3, Florida Administrative Code.

A hospital offers more intensive services than those required for room, board, personal services, and general nursing care. A range of health care services is offered with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care. Hospitals must make regularly

available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.¹

Dissemination of Health Care Information

The Agency is required to publish and disseminate information to the public which will enhance informed decisionmaking in the selection of health care providers, facilities, and services.² The information is published on the FloridaHealthFinder website at: <http://www.floridahealthfinder.gov>.

The Florida Center for Health Information and Policy Analysis (Florida Center) within the Agency is responsible for collecting, compiling, analyzing, and disseminating health-related data and statistics. The State Consumer Health Information and Policy Advisory Council (Council) is established in the Agency to:

- Assist the Florida Center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of:
 - Health-related data,
 - Fraud and abuse data, and
 - Professional and facility licensing data among federal, state, local, and private entities; and
- Recommend improvements for purposes of public health, policy analysis, and transparency of consumer health care information.³ The Council advises the Agency regarding making available information for consumers to use to compare health care services.

Hospitals report nurse staffing counts per unit annually in hospital financial reports mandated in s. 408.061(4), F.S. However, the Agency does not report this data on its website. The Council has not recommended the publication of nurse staffing data.

Occupational Safety and Health Administration (OSHA)

Congress created the OSHA under the Occupational Safety and Health Act, which was signed by President Richard M. Nixon on December 29, 1970. The OSHA's mission is to prevent work-related injuries, illnesses, and deaths. The OSHA's inspection priorities are ordered as follows: top priority are reports of imminent dangers-accidents about to happen; second are fatalities or accidents serious enough to send three or more employees to the hospital; third are employee complaints; fourth are referrals from other government agencies; fifth are targeted inspections, such as the Site Specific Targeting Program, which focuses on employers that report high injury and illness rates, and special emphasis programs that zero in on hazardous work such as trenching or equipment such as mechanical power presses. Follow-up inspections are the final priority.

¹ Section 395.002(12), Florida Statutes.

² S. 408.063, F.S.

³ S. 408.05, F.S.

The OSHA maintains an online inspection database at <http://osha.gov/pls/imis/establishment.html>, which enables one to search inspection results for companies by name or by Standard Industrial Classification (SIC) code.

Joint Commission on Accreditation of Healthcare Organizations

The Joint Commission on Accreditation of Healthcare Organization (Joint Commission) is an independent, not-for-profit organization. The Joint Commission accredits and certifies more than 15,000 health care organizations and programs in the United States. The Joint Commission's accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.

The Joint Commission provides public access to organization-specific performance reports through Quality Check. Quality Check, located at www.qualitycheck.org is a comprehensive guide to health care organizations in the United States. One is able to search by facility name, zip code, or city. In addition, one is able to find organizations by type of service provided within a geographic area. Quality Reports within the search results provide information about a health care organization's:

- Joint Commission accreditation decision and the effective dates of the accreditation award. For Provisional, Conditional, and Preliminary Denial of Accreditation decisions, the reports will list the standards cited for Requirements for Improvement.
- Programs accredited by the Joint Commission, and programs or services accredited by other accrediting bodies.
- Compliance with the Joint Commission's National Patient Safety Goals, as applicable to the organization.
- Performance on National Quality Improvement Goals (hospitals only). These goals allow hospitals to report on key quality-of-care indicators in up to five treatment areas: heart attack, heart failure, community acquired pneumonia, pregnancy and related conditions, and surgical care improvement project for infection prevention. These performance data are updated quarterly. As more measures are approved and endorsed by the National Quality Forum, the Joint Commission will explore ways to incorporate these data in Quality Reports.
- Special quality awards, including recognition such as Disease-Specific Care Certification, Ernest A. Codman Award, Eisenberg Patient Safety Award, Franklin Award, and Magnet status (awarded by the American Nurses Credentialing Center), Medal of Honor for Organ Donation, and others approved by the Joint Commission's Board of Commissioners.

Hospital Consumer Assessment of Healthcare Providers and Systems Survey

The Centers for Medicare and Medicaid Services (CMS) partnered with the federal Agency for Healthcare Research and Quality to develop the Hospital Consumer Assessment of Healthcare Providers and Systems Survey (HCAHPS). The HCAHPS initiative is intended to provide a standardized survey instrument and data collection methodology for measuring patients' perspectives on hospital care. The survey is composed of 18 patient rating and patient perspectives on care items that encompass seven key topics: communication with doctors, communication with nurses, responsiveness of hospital staff, cleanliness and quietness of the hospital environment, pain management, communication about medicines, and discharge

information. It also includes four screener questions and five demographic items, some of which may be used for adjusting the mix of patients across hospitals and for analytical purposes. The first public reporting of results is anticipated in March 2008. Acute care hospitals receiving payments from CMS under the inpatient prospective payment system run the risk of receiving a reduced payment rate for failing to report the required quality measures.

Nurse Staffing

Hospitals with low nurse staffing levels tend to have higher rates of poor patient outcomes such as pneumonia, shock, cardiac arrest, and urinary tract infections, according to research funded by the Agency for Healthcare Research and Quality (AHRQ) and others.⁴

III. Effect of Proposed Changes:

Section 1. Names the bill the “Patients’ Right-to-Know Act.”

Section 2. Provides that the purpose of the act is to improve health care by providing information concerning the financial health, staffing levels, and safety of hospitals in Florida.

Section 3. Defines the following terms that are used in the bill:

- “Agency nurse” means any direct-care nurse not directly employed by the hospital;
- “Average daily census” is the average number of patients receiving services in any given 24-hour period beginning at midnight in each clinical service area of the hospital;
- “Average daily CNA staffing level” means the average numerical certified nursing assistant(CNA)-to-patient ratio within a nursing department or unit, calculated by dividing the annual average daily census for the nursing department or unit by the average number of direct-care CNA FTE’s per shift for the nursing department or unit;
- “Average daily LPN staffing level” means the average numerical licensed professional nurse (LPN)-to-patient ratio within a nursing department or unit, calculated by dividing the annual average daily census for the nursing department or unit by the average number of direct-care LPN FTE’s per shift for the nursing department or unit;
- “Average daily RN staffing level” means the average numerical direct-care nurse-to-patient ratio within a nursing department or unit, calculated by dividing the annual average daily census for the nursing department or unit by the average number of direct-care RN FTE’s per shift for the nursing department or unit;
- “Direct-care nurse” means any registered nurse who has direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients. A nurse administrator, nurse supervisor, nurse educator, charge nurse, or other registered nurse who does not have a specific patient assignment may not be included in the calculation of the staffing level;
- “Hospital” means an acute care hospital licensed under s. 395.003, F.S.;

⁴ See U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality *Hospital Nurse Staffing and Quality of Care* by Mark W. Stanton, M.A., found at : <<http://www.ahrq.gov/research/nursestaffing/nursestaff.htm>> (Last visited on March 31, 2008).

- “Registered nurse turnover rate” means the number of RNs who are no longer employed at the hospital during the year divided by the average of RNs employed on the first day of the year and the last day of the year;
- “Registered nurse vacancy rate” means the number of vacant RN positions within a hospital divided by the total number of filled positions plus the total number of vacant positions within that hospital; and
- “Unit” means a functional division or area of a hospital in which nursing care is provided.

This section also requires the Agency to develop rules to obtain the following information from each acute care hospital licensed under ch. 395, F.S., and to publish and disseminate the information to the public:

- Number and description of OSHA violations;
- Vacancy rate and turnover rate for registered nurses;
- Results of the Consumer Assessment of Healthcare Providers and Systems hospital survey;
- Number and description of complaints made to the Joint Commission and the Agency;
- Specific average daily staffing levels for each of the following: RNs, LPNs, and CNAs; and
- Percentage of nursing hours completed by non-employees for each of the following hospital units: medical-surgical, adult critical care, pediatrics, pediatric intensive care, neonatal intensive care, trauma intensive care, mother-baby unit, psychiatric unit, ambulatory care and outpatient, dialysis, cardiac catheterization laboratory, operating room, medical oncology, burn unit, transplant unit, rehabilitation unit, gastrointestinal laboratory, emergency, telemetry, and recovery unit including post-anesthesia care.

The bill provides guidance to the Agency for reporting the average daily staffing levels by unit in a manner that health care research has shown to have a significant effect on the quality of patient care and patient outcomes, and is risk-adjusted for patient acuity using the methodology described in s. 408.061(1), F.S.,⁵ or equivalent methodology that is consistent with national standards used by the Agency for Healthcare Research and Quality.

The current staffing level and anticipated staffing schedule must be available to the public upon request for each patient care unit for the effective date of that schedule. The schedule must list the assigned nursing personnel and average daily census for each patient care unit.

Section 4. Provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

⁵ Section 408.061(1), F.S., describes additional data to be submitted by health care facilities, providers, and insurers so that the Agency can carry out its duties. In this sub-section, the Agency is charged with adopting nationally recognized risk adjustment methodologies or software consistent with the standards of the Agency for Healthcare Research and Quality for the submission of that data.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Gathering and reporting the required information will impact licensed acute care hospitals in the state.

C. Government Sector Impact:

The Agency will need to draft rules and develop or enhance automated systems to implement the requirements of this bill. The Agency indicated it will need an additional 6 positions to implement the bill. The fiscal impact is \$704,219 for the first year and \$428,719, thereafter.

VI. Technical Deficiencies:

Several different phrases are used throughout the bill, for example, “clinical service area” is used on line 36, “nursing department or unit” is used on lines 39, 45, and 50-51, and “patient care unit” is used on lines 115 and 118. Although “unit” is defined as a functional division or area of a hospital in which nursing care is provided and lines 88-95 specify hospital units for which certain information is to be reported, the definition and distinction, if any, intended for these phrases is unclear.

The abbreviation, “FTE’s” is used on lines 41, 47, and 53, but it is not defined or spelled out in the bill or existing section or chapter in the Florida Statutes.

Based on the punctuation used on lines 85-95, it is unclear whether discrete information related to all the nursing-staffing-levels is to be reported for the specified hospital units or whether only the percentage of nursing hours by agency nurses is to be reported by hospital unit.

One of the purposes of the bill, as stated in section 2, is to provide information to the public concerning the financial health of hospitals in the state. However, the bill does not provide guidance to the Agency for rulemaking purposes regarding specific information to request and publish concerning the financial health of each acute care hospital in the state.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
