

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 2436

By Delegates Tully, Summers, Forsht, Hardy, Worrell,
Jennings, Mallow, Honaker, Miller, Foggin and
Heckert

[Originating in the Committee on Health and Human
Resources; Reported on January 25, 2023]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a
2 new section, designated §16-5B-20, relating to the implementation of an acuity-based
3 patient classification system; defining terms; providing for legislative findings; establishing
4 a process to develop a plan; requiring a staffing plan to be reported; providing an
5 exemption from the Freedom of Information Act; and establishing a framework for the
6 staffing plans to be sent.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-20. Patient safety and transparency.

1 (a) As used in this section:

2 "Acuity-based patient classification system" means a set of criteria based on scientific data
3 that acts as a measurement instrument which predicts registered nursing care requirements for
4 individual patients based on severity of patient illness, need for specialized equipment and
5 technology, intensity of nursing interventions required, and the complexity of clinical nursing
6 judgment needed to design, implement and evaluate the patient's nursing care plan consistent
7 with professional standards of care. The acuity system criteria shall take into consideration the
8 patient care services provided by registered nurses, licensed practical nurses and other health
9 care personnel.

10 "Competency" means those observable and measurable knowledge, skills, abilities and
11 personal attributes, as determined by the facility, that demonstrate a nurse's ability to safely
12 perform expected nursing duties of a unit.

13 "Direct-care registered nurse" means a registered nurse, who is a member of the facility's
14 staff, has no management role or responsibility, and accepts direct responsibility and
15 accountability to carry out medical regimens, nursing or other bedside care for patients.

16 "Facility" means a hospital, licensed pursuant to the provisions of this article, a licensed
17 private or state-owned and operated general acute-care hospital, an acute psychiatric hospital, or
18 any acute-care unit within a state operated facility.

19 "Nursing care" means care which falls within the scope of practice, as provided §30-7-1 et
20 seq.

21 "Orientation" means the process that the facility develops to provide initial training and
22 information to clinical staff relative to job responsibilities and the organization's mission and goals.

23 "Unit" means those areas of the hospital organization not considered departments which
24 provide specialized patient care.

25 "Unit Nurse Staffing Committee" means a committee made up of facility employees which
26 includes a minimum of 51% of direct-care registered nurses who regularly provide direct nursing
27 care to patients on the unit of the facility for which the nurse staffing plan is developed.

28 (b) The Legislature finds that to better facilitate planning for future states of emergency in
29 West Virginia, a comprehensive system for nurses should be established to create staffing plans to
30 ensure facilities are adequately staffed to handle the daily workload that may accompany a state of
31 emergency. Further, the Legislature finds that nurses in West Virginia fall under the definition of
32 "critical infrastructure," and by establishing a comprehensive staffing plan, West Virginia will be
33 better equipped to deal with employment and staffing issues associated with higher acuity
34 treatment in facilities.

35 (c) A facility shall:

36 (1) Develop, by July 1, 2024, an acuity-based patient classification system to be used to
37 establish the staffing plan to be used for each unit.

38 (2) Direct each unit nurse staffing committee to annually review the facility's current acuity-
39 based patient classification system and submit recommendations to the facility for changes based
40 on current standards of practice;

41 (3) Submit, by July 1, 2024 and annually thereafter to the Department of Homeland
42 Security, the prospective staffing plan for each facility by unit, which is protected information as
43 provided in §29B-1-4(a)(14);

44 (4) Provide orientation, competency validation, education, and training programs in
45 accordance with a nationally recognized accrediting body recognized by the Centers for Medicare
46 and Medicaid Services or in accordance with the Office of Health Facility Licensure and
47 Certification. The orientation shall include providing for orientation of registered nursing staff to
48 assigned clinical practice areas.

49 (d) The setting of staffing standards for a registered nurse may not be interpreted as
50 justifying the understaffing of other critical health care workers

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.