

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4351

BY DELEGATES TULLY, SUMMERS, HAYNES, B. WARD,

HOTT, DEAN, JEFFRIES, FAST, LINVILLE, PINSON, AND

WORRELL

[Introduced January 24, 2022; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §16-5B-20, relating to creating the Patient Safety & Transparency Act;
 3 establishing definitions; providing for legislative findings; creating a staffing plan to be sent
 4 to the Office of Health Facility Licensure and Certification, the West Virginia Department
 5 of Health and Human Resources, and the West Virginia Department of Homeland
 6 Security; and establishing a framework for the 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 & Transparency Act.

1 (a) Definitions - As used in this section:

2 (1) "Acuity-based patient classification system" means a standardized set of criteria based
 3 on scientific data that acts as a measurement instrument which predicts registered nursing care
 4 requirements for individual patients based on severity of patient illness, need for specialized
 5 equipment and technology, intensity of nursing interventions required and the complexity of
 6 clinical nursing judgment needed to design, implement and evaluate the patient's nursing care
 7 plan consistent with professional standards of care, details the amount of registered nursing care
 8 needed, both in number of direct-care registered nurses and skill mix of nursing personnel
 9 required on a daily basis for each patient in a nursing department or unit and is stated in terms
 10 that readily can be used and understood by direct-care registered nurses. The acuity system
 11 criteria shall take into consideration the patient care services provided not only by registered
 12 nurses but also by licensed practical nurses and other health care personnel.

13 (2) "Assessment tool" means a measurement system which compares the registered
 14 nurse staffing level in each nursing department or unit against actual patient nursing care
 15 requirements in order to review the accuracy of an acuity system.

16 (3) "Charge nurse" means a registered nurse who is assigned to manage the operations
 17 of the patient care area for a shift, and the coordination of activities in the patient care area;

18 (4) “Competency” means those observable and measurable knowledge, skills, abilities
19 and personal attributes, as determined by the facility, that demonstrate a nurse’s ability to safely
20 perform expected nursing duties of a unit.

21 (5) “Direct-care registered nurse” means a registered nurse who is a member of the
22 facility’s staff, has no management role or responsibility, and accepts direct responsibility and
23 accountability to carry out medical regimens, nursing or other bedside care for patients.

24 (6) “Facility” means a hospital, the teaching hospital of a medical school, any licensed
25 private or state-owned and operated general acute-care hospital, an acute psychiatric hospital, a
26 specialty hospital or any acute-care unit within a state operated facility, but does not include critical
27 access hospitals.

28 (7) “Nursing care” means care which falls within the scope of practice as prescribed by
29 state law or otherwise encompassed within recognized professional standards of nursing practice,
30 including assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.

31 (8) “Orientation” means the process that the facility has developed to provide initial training
32 and information to clinical staff relative to job responsibilities and the organization’s mission and
33 goals.

34 (9) “Patient assessment” means the utilization of critical thinking which is the intellectually
35 disciplined process of actively and skillfully interpreting, applying, analyzing and evaluating data
36 obtained through direct observation and communication with others.

37 (10) “Ratio” means the actual number of patients to be assigned to each direct-care
38 registered nurse.

39 (11) “Unit Nurse Staffing Committee” means a committee made up of facility employees
40 which includes a minimum of 51 percent of direct-care registered nurses who regularly provide
41 direct nursing care to patients on the unit of the facility for which the nurse staffing plan is
42 developed.

43 (b) Legislative findings – The Legislature finds that to better facilitate planning for both

44 prior states of emergency and future states of emergency in the State of West Virginia and in the
45 nation as a whole, a comprehensive system for nurses should be established to create staffing
46 plans and make sure hospitals are fully staffed to handle the workload daily and that may
47 accompany a state of emergency. Further, the Legislature finds that nurses in West Virginia fall
48 under the definition of “critical infrastructure,” and by establishing a comprehensive staffing plan,
49 West Virginia will be better equipped to deal with employment and staffing issues associated with
50 higher acuity treatment in hospitals.

51 (c) Establishment of act - Each facility shall direct each unit nurse staffing committee to
52 develop within one year of the effective date of this section, a standardized acuity-based patient
53 classification system to be used to establish the number of direct care registered nurses needed
54 to meet patient needs. Each of these facilities shall designate a charge nurse to conduct a patient
55 assessment in order to assign direct-care registered nurses based on acuity level.

56 (d) Each facility shall annually submit to the Office of Health Facility Licensure and
57 Certification, the West Virginia Department of Health and Human Resources, and the West
58 Virginia Department of Homeland Security a prospective staffing plan, as developed by each unit
59 nurse staffing committee together with a written certification that the staffing plan is sufficient to
60 provide adequate and appropriate delivery of health care services to patients for the ensuing year
61 and does all of the following:

62 (1) Employs the acuity-based patient classification system;

63 (2) Provides for orientation of registered nursing staff to assigned clinical practice areas,
64 including temporary assignments;

65 (3) Includes other unit or department activity such as discharges, transfers and
66 admissions, administrative and support tasks that are expected to be done by direct-care
67 registered nurses in addition to direct nursing care; and

68 (4) Submits the assessment tool used to validate the acuity system relied upon in the plan.

69 Each facility annually shall submit to the respective departments an audit of the preceding

70 year's staffing plan as required by this subsection. The audit shall compare the staffing plan with
71 measurements of actual staffing as well as measurements of actual acuity for all units within the
72 facility.

73 (e) A facility required to have a staffing plan under this section shall prominently post on
74 each unit the daily written nurse staffing plan to reflect the registered nurse-to-patient ratio as a
75 means of providing information and protection; and

76 (f) A facility shall designate one or more full-time registered nurses to be responsible for
77 the overall execution of resources to ensure sufficient registered nurse staffing is provided by the
78 facility, to be responsible for the overall quality assurance of nursing care as provided by the
79 facility; and to ensure the overall occupational health and safety of nursing staff employed by the
80 facility.

81 (g) For purposes of compliance with this section no registered nurse may take an
82 assignment to a unit or a clinical area within a health facility unless that registered nurse has an
83 appropriate orientation in that clinical area sufficient to provide competent nursing care to the
84 patients in that area, and has demonstrated current competence in providing care in that area.
85 There shall be a written, organized education plan for providing orientation and competency
86 validation for all patient care personnel:

87 (1) All patient care personnel shall complete orientation to the hospital and their assigned
88 patients and patient care unit or units before receiving patient care assignments;

89 (2) All patient care personnel shall be subject to the process of competency validation for
90 their assigned patients and patient care unit or units;

91 (3) Prior to the completion of validation of the competency standards for the patient care
92 unit, patient care assignments are subject to the following restrictions:

93 (A) Assignments shall include only those duties and responsibilities for which competency
94 has been validated;

95 (B) A registered nurse who has demonstrated competency for the patient care unit shall

96 be responsible for the nursing care, and shall be assigned as a resource nurse for those registered
97 nurses who have not completed validation for that unit; and

98 (C) Registered nurses may not be assigned total patient responsibility for patient care until
99 all the standards of competency for that unit have been validated;

100 (4) Orientation and competency validation shall be documented in the employee's file and
101 shall be retained for the duration of the individual's employment; and

102 (5) The staff education and training program shall be based on current standards of
103 nursing practice, established standards of staff performance, individual staff needs and needs
104 identified in the quality assurance process.

105 (h) The setting of staffing standards for registered nurses is not to be interpreted as
106 justifying the understaffing of other critical health care workers, including licensed practical nurses
107 and unlicensed assistive personnel. The availability of these other health care workers enables
108 registered nurses to focus on the nursing care functions that only registered nurses, by law, are
109 permitted to perform and thereby helps to ensure adequate staffing levels.

NOTE: The purpose of this bill is to create the Patient Safety & Transparency Act.

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