

# Safe Staffing Legislation

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A DEEP DIVE INTO STAFFING COMMITTEES UNDER THE NEW LAW

# Being an Effective Committee

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## Be Prepared to:

- Gather information (AFT-CT toolkit, info request to hospitals, talking with members)
- Analyze staffing data
- Present your staffing grid
- Prepare agendas and review minutes

## Be Unified and Strong

- Ensure that all direct care RN members of the committee are unified for voting and other positions
- Don't let management control the meeting

## Be Organized

- Maintain records of minutes, notes, and research

# Protection from Retaliation

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Illegal for Hospital to retaliate against a RN for:

1. Participating in the staffing committee
2. Raising concerns of unsafe staffing, workplace violence, racism or bullying
3. Filing a complaint with the staffing committee or expressing concerns to the staffing committee

# Starting your staffing committee

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## Who is on the committee?

- Majority of members must be direct care nurses (50% + 1 rule)
  - "The total number of direct care RNs shall be one more than the total number of non-direct care RNs on the staffing committee"
- Union selects direct care RNs
  - Union selects the RN members that comprise no less than 50% of the committee
  - For the "+1 RN": Union provides the hospital with a list of multiple names of RNs from which hospital management will select one additional RN member.
- Hospital selects the remaining members of the committee

# Starting your staffing committee

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## Who is on the committee?

### Example of a staffing committee:

1. 6 Members who are Direct Care Registered Nurses Selected by the Nurses' Union
2. 6 Members who are not Direct Care Registered Nurses Selected by the Hospital (e.g., director of nursing)
3. 1 Member who is a Direct Care Registered Nurse Selected from a List Provided by the Nurses' Union to the Hospital

# Starting your staffing committee

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## Selecting Committee Members

Broad Representation: "Each hospital's staffing committee shall include broad-based representation across hospital services".

How many members?

- Law does not define how many members should be on committee
- CBA may set forth a number, but law takes precedent (50%+1 rule, broad representation)

Recruiting nurses that broadly represent the major departments/service lines in the hospital is crucial!

# Starting your staffing committee

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## Selecting Committee Members

How do I recruit committee members?

- Have departments put forth someone they trust and respect to serve on the committee
- Ask for volunteers
- Select RNs to represent various departments/service lines

# Starting your staffing committee

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## Discussion

What are the qualities of someone who will make a good committee members?



# What does the Staffing Committee do?

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In developing the staffing plan, the committee shall:

- Evaluate the most recent research regarding patient outcomes
- Share the process for communicating concerns to the committee on the staffing plan and staffing assignments with hospital staff
- Review all reports regarding the abovementioned concerns
- Review objections or refusals by a RN to participate in an unsafe staffing assignment

# What does the Staffing Committee do?

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**Review complaints submitted by a RN because the task would violate the staffing plan**

"If a **registered nurse reasonably believes** his or her participation in an activity, policy, practice or task **would violate a provision of a nurse staffing plan** or policy approved by the hospital's nurse staffing committee, the nurse may **file a complaint with the nurse staffing committee** on a form developed by the hospital and approved by [DPH]"

"The hospital and its nurse staffing committee shall analyze the complaint and provide [DPH] with an analysis of actions taken in response to such complaint."

Hospital provides to DPH with the biannual report relating to compliance with ratios.

**Encourage nurses (individually or as a group) to fill out form whenever assignment does not comply with staffing plan!**

# How the Staffing Committee functions

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## **Quorum**

- A quorum is required to vote and make official decisions (like approving the staffing plan).
- A majority of the members of the staffing committee will make up a quorum for staffing committee business

# How the Staffing Committee functions

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## Voting

### Majority Rule:

- Decisions made by the staffing committee shall be made by a vote of a majority of the members present at the meeting (this includes approving the staffing plan)

### Direct care registered nurses must always have a majority vote

- If RNs do not make up a majority of the committee members at a meeting, committee members who are not more direct care RNs (i.e., management) must abstain from voting so that direct care RNs make up a majority.
- **Example:** At a staffing committee meeting, there are 4 managers and 3 direct care RNs present. When it comes time to vote, only 2 managers and all 3 direct care RNs can vote.

**This is why being prepared and voting in unison is so important. If we do that, we hold the power!**

# How the Staffing Committee functions

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## Minutes

- Committee will take minutes of every meeting
- Minutes are made available to all hospital staff and DPH upon request
- Recommendation: Alternate who takes minutes each meeting between RNs and management

## Co-chairs

Each committee will have two chair-persons

- One RN who is elected by members of the committee who are RNs
- One who is elected by members of the committee who are NOT direct care RNs (management)
  - This person must have direct patient care experience

# How the Staffing Committee functions

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## **Attending the meeting**

- Coverage: Each hospital shall ensure that RNs have coverage to attend hospital staffing committee meetings
- Payment: Hospitals will pay nurses who serve on the staffing committee their regular rate of pay, including differentials, for participation on the committee
- Hours: To extent possible, time spent on committee meetings will count towards regular budgeted hours

## **How often should the committee meet?**

- The law does not specify
- We recommend you meet at least monthly

# What is included in the staffing plan?

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## What is already required (and continues to be required)

- The minimum professional skill mix for each patient care unit in the hospital
- The hospitals employment practices for temporary and traveling nurses
- The level of administrative staffing in each patient care unit of the hospital that administrative functions do not fall to direct care
- The hospitals process for internal review of the nursing plan
- The hospitals mechanism of obtaining input from direct care staff in the development of the nurse staffing plan

# What is included in the staffing plan

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What is already required (and continues to be required)

- 1) The number of registered nurses providing direct patient care and the ratio of patients to such registered nurses by patient care unit
- 2) The number of licensed practical nurses providing direct patient care and the ratio of patients to such licensed practical nurses by patient care unit
- 3) The number of assistive personnel providing direct patient care and the ratio of patients to such assistive personnel, by patient care unit
- 4) The method used by the hospital to determine and adjust direct patient care staffing levels
- 5) A description of assistive personnel on each patient care unit
- 6) A description of any differences between the staffing levels described in the staffing plan and actual staffing levels for each patient care unit
- 7) Any action the hospital intends to take to address such differences or adjust staffing levels in future staffing plans



# What is included in the staffing plan?

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New requirements under this law:

- 1) Information about any objections to or refusals to comply with the nurse staffing plan by hospital staff that were communicated to the hospital staffing committee
- 2) Measurements of and evidence to support successful implementation of the nurse staffing plan
- 3) Retention, turnover and recruitment rates
  - 1) The turnover rate for the hospital for the preceding 12 months
  - 2) The average years of experience of permanent direct care registered nursing staff per unit
- 4) The number of instances since the last nurse staffing plan was submitted when the hospital was not in compliance with such plan, how and why the plan was not complied with and plans to avoid future noncompliance with such plan and
- 5) Certification that the hospital and its staffing committee are meeting the requirements set forth in the legislation and a description of how each requirement is being met

# Reporting and Transparency

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- The hospital must notify all employees of the committee (how to get on, report concerns, etc.)
- Staffing committee meeting minutes must be made available to staff and DPH upon request
- Staffing plan must be submitted to DPH twice a year
- Staffing plan is available to staff, the public, and DPH upon request
- **Posting of plan:** Each hospital shall post the nurse staffing plan in each patient care unit in a conspicuous location visible and accessible to staff, patients and members of the public
- **Records of actual ratios:** Each hospital shall maintain staffing to patient ratios for the preceding three years. Such records available to staff, union, DPH, patients, and public upon request

# Enforcement - Fines

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- DPH has the power of impose fines on hospitals for failing to comply with this legislation
- DPH will impose fines for a failure by a hospital to:
  - Establish or maintain a hospital staffing committee pursuant to the law (including paying employees on committee, taking minutes, having co-chairs, etc.)
  - Submit the report to DPH required by the law indicating complying w/ ratios at least 80% of time
  - Post the staffing plan required by the law
  - Comply with 80% of the nurse staffing assignments set forth in the nurse staffing plan (effective October 1, 2024)
- The Commissioner of Public Health will:
  - Require a hospital to submit a corrective action
  - Impose a penalty of \$3,500 for the first violation
  - Impose a penalty of \$5,000 for each subsequent violation

# Enforcement - Compliance

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Starting October 1, 2024, hospitals must certify to DPH whether it has been in compliance with the staffing assignments (ratios) at least 80% of the time.

- This is on every shift and unit
- Report due to DPH every six months
- We can hold hospital accountable by tracking and reviewing actual ratios they are required to maintain.

# Enforcement - Audits

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- DPH can order an audit of the nurse staffing assignments of each hospital to determine compliance with the staffing plan
- Hospital pays cost of audit
- The audit can include an assessment of
  - The hospital's compliance with the legal requirements for the content of such plan
  - The accuracy of reports submitted to the department
  - The membership of the hospital staffing committee

# Enforcement - Audits

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- In determining which hospital to audit, DPH considers:
  - Consistent noncompliance with staffing plan
  - Fear of false reporting
  - Any other health care quality concerns

**Nurses: If your staffing plan is not being followed, file a complaint!**

**Committee Members: Notify DPH if reporting is inaccurate**

# Roles and Responsibilities of the Hospital

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The hospital is responsible for:

- Implementing the staffing plan
- Submitting the staffing plan to DPH
- Posting the staffing plan
- Providing necessary information to create staffing plan
- Submitting reports to DPH (i.e., compliance of ratios 80% of time)
- Maintaining records of ratios and providing it upon request
- Create and have DPH approve "object to assignment" form and a complaint form for noncompliance with staffing plan

# Timeline

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1. October 1, 2023, new law takes effect (but if Hospital is willing, don't wait to start new committee)
2. January 1, 2024, new staffing plan is submitted to DPH, and then submitted every six months
3. October 1, 2024, Hospital certifies its compliance with staffing plan at least 80% of time over previous months; also reports complaints submitted by RNs



# Questions?

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# Consideration for locals and committees

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What ratios to propose?

- Go for what we want immediately? Gradually?

Defining what numbers in the ratios mean in the staffing plan

- Charge, admission halfway through shift, managers assisting