Bill Summary
HB3338 – Safe Patient Limits
103rd General Assembly 2023 and 2024

Link to Bill https://www.ilga.gov/legislation/103/HB/PDF/10300HB3338lv.pdf

House Sponsors

Rep. Theresa Mah - Fred Crespo - Mary E. Flowers - Barbara Hernandez, Will Guzzardi, Nabeela Syed and Michael J. Kelly

Last Action

Date	Chamber	Action
4/28/2023	House	Rule 19(a) / Re-referred to Rules Committee

Notes: Throughout the summary, unless otherwise qualified, "nurse" means direct care registered professional nurse. Numbers (ex. 10.) preceding sentences refer to section numbers in the bill.

New Act. Creates the Safe Patient Limits Act.

- **Provides the maximum number of patients that may be assigned to a registered nurse in specified situations** and that nothing shall preclude a facility from assigning fewer patients to a registered nurse than the limits provided in Act.

5. Definitions.

- "Couplet" one postpartum patient and one baby.
- "Critical trauma patient" a patient who has an injury to an anatomic area that (i) requires life-saving interventions, or (ii) in conjunction with unstable vital signs, poses an immediate threat to life or limb.
- "Department" the Department of Public Health.
- "Direct care registered professional nurse" means a registered professional nurse who has accepted a hands-on, in-person patient care assignment and whose primary role is to provide hands-on, in-person patient care.
- "Facility" a hospital licensed under the Hospital Licensing Act or organized under the University of Illinois Hospital Act, includes:
    - a private or State-owned and State-operated **general acute care hospital**
    - an LTAC hospital as defined in Section 10 of the **Long Term Acute Care Hospital** Quality Improvement Transfer Program Act
    - an **ambulatory surgical treatment center** as defined in Section 3 of the Ambulatory Surgical Treatment Center Act
    - a **freestanding emergency center** licensed under the Emergency Medical Services Systems Act
    - a **birth center** licensed under the Birth Center Licensing Act
    - **an acute psychiatric hospital**
    - **an acute care specialty hospital**
    - **an acute care unit** within a health care facility
- "Health care emergency" means an emergency that is declared by an authorized person within federal, state, or local government and is related to circumstances that are unpredictable and unavoidable and that affect the delivery of medical care and require an immediate or exceptional level of emergency or other medical services at the specific facility. Does not include a state of emergency that results from a labor dispute in the health care industry or consistent understaffing.

- "Health care workforce" personnel employed by or contracted to work at a facility that have an effect upon the delivery of quality care to patients, including, but not limited to, registered nurses, licensed practical nurses, unlicensed assistive personnel, service, maintenance, clerical, professional, and technical workers, and other health care workers.
- "Immediate postpartum patients" those patients who have given birth within the previous 2 hours.
- "Nursing care" care that falls within the scope of practice as described in Section 55-30 or 60-35 of the Nurse Practice Act or is otherwise encompassed within recognized standards of nursing practice.
- "**Rapid response team**" a team of health care providers that provide care to patients with early signs of deterioration to prevent respiratory or cardiac arrest.
- "Registered nurse" or "registered professional nurse" a person who is licensed as a registered professional nurse under the Nurse Practice Act and practices nursing as described in Section 6-35 of the Nurse Practice Act.
- "Specialty care unit" a unit which is organized, operated, and maintained to provide care for a specific medical condition or a specific patient population.

For the purposes of this Act, a patient is considered assigned to a registered nurse if the registered nurse accepts responsibility for the patient's nursing care.

Maximum Nurse-Patient Ratios.

- **10.**
The maximum number of patients assigned to a registered nurse in a facility shall not exceed the limits provided in this Section.

The requirements of this Section apply at all times during each shift within each clinical unit and each patient care area.

Emergency Department:
1 nurse: 1 critical care patient – identified when patient meets admission criteria to a critical care service
1 nurse: 1 critical trauma patient
1 nurse: 3 patients providing basic or comprehensive emergency medical services
At least 1 nurse shall be assigned to triage patients, be immediately available, and shall perform triage functions only which does not include base radio. Triage, radio, or flight registered nurses shall not be counted in the calculation of direct care registered nurse staffing levels.

Inpatient

1 nurse: 1 patient:	
Active labor	Newborn patients when the patient is unstable, as assessed by a nurse
Conscious sedation; patients being monitored for effects of anesthetizing agent	Operating room provided that a minimum of one additional person serves as a scrub assistant for each patient.
Critical Care	Patients with medical or obstetrical complications, during epidural anesthesia initiation or during circulation for a caesarian section delivery.
During birth – 1 nurse for patient in labor and 1 nurse for each newborn	Post-anesthesia care
Intensive Care	

1 nurse: 2 patients:	
Antepartum requiring continuous fetal monitoring	Newborn patients when the patients are receiving intermediate care
Immediate (within two hours of birth) post-partum. 1 nurse per couplet (mother and baby) plus additional nurse for each additional newborn	

1 nurse: 3 patients:	
All units with pediatric patients	Observation
Antepartum not requiring continuous fetal monitoring	Step-down
Intermediate intensive care	Telemetry

1 nurse: 4 patients:	
Acute rehabilitation	Postoperative gynecological care
All other units not listed	Postpartum units 2 couplets (mother and baby)
All units with psychiatric patients	Surgical
Medical	

- **15.**
  Use of rapid response teams as first responders prohibited. A rapid response team nurse shall not be given direct care patient assignments while assigned as a nurse responsible for responding to a rapid response team request.

Implementation

- **20.**
  a. A facility shall **implement** the patient **limits** established by Section 10 **without diminishing** the **staffing levels of the facility's health care workforce**, as defined in section 5 (definitions). May not lay off LPNs, licensed psychiatric technicians, CNAs, or other ancillary support staff to meet the patient limits.

  b, c, d. Each patient must be assigned to a nurse. No averaging of nurse or patient numbers. Only nurses count toward patient limits.

  e. Nurse administrator, nurse supervisor, nurse manager, charge nurse, and other nurse hours providing patient care **cannot be counted** towards patient limits, unless the nurse:
  1. has a current and active direct patient care assignment;
  2. provides direct patient care in compliance with sections 20 and 45;
  3. has demonstrated current competency in providing care;
  4. has no additional job duties during patient assignment time period.

  f. Nurse administrator, nurse supervisor, nurse manager, charge nurse, and other nurse hours providing patient care **can be counted** towards patient limits if the nurse is providing relief for a nurse during breaks, meals, and other routine and expected absences from the unit.

  g. At all times, at least two nurses must be physically present in each facility unit, clinical unit, or patient care area where there are patients present.

h. A unit by any other name does not affect the requirement to comply with patient limits.

i. Direct care nurse has the authority to determine if a patient's status places the patient into another patient limit category.

j. Patient meeting more than one section 10 limit category must be assigned to the lowest applicable numerical patient assignment.

k. Facility must provide additional nursing and/or ancillary staff based on the nurse's assessment.

l. Facility may not employ video monitors, remote patient monitoring, or electronic visualization as a substitute for direct in-person observation required for patient assessment or protection. Electronic visualization will not count towards patient limits.

m. **Nurse relief for meals, breaks, and routine absences must be provided by a nurse with unit-specific education, training, and competence**.

Census Changes

- **25.**
  A facility shall plan for routine fluctuations in its patient census. If a **health care emergency** causes a change in the number of patients, a facility must demonstrate efforts to maintain required staffing levels. Facility must immediately notify IDPH if a health care emergency causes a change in number of patients and **report efforts made to maintain required staffing levels**.

Record of Staff Assignments

- **30.**
  A facility **shall keep a record of** the actual nurse, licensed practical nurse, certified nursing assistant, and other ancillary **staff assignments** to individual patients documented on a day-to-day, shift-by-shift basis **and submit copies of its records to IDPH every quarter** and keep copies of its staff assignments on file for 7 years. Documentation is required as a mandatory condition of licensure and must be certified by the CNO as complete and accurate under penalty of perjury and fraud.

IDPH Implementation

- **35.**
  The Department of Public Health shall adopt rules governing the implementation and operation of the Act and conduct periodic compliance audits.

Education

- **40.**
  Facilities must adopt written policies for procedures for the education, training, orientation and competency demonstration of nursing staff to each clinical area. A nurse will not be assigned to an area or as relief without first receiving the education, training, and orientation and demonstrating competency. Temporary nursing agency personnel will not be assigned without first receiving the education, training, and orientation and demonstrating competency.

Enforcement

- **45.**
  IDPH may impose a civil penalty of up to $25,000 for each violation of this Act. If IDPH determines a pattern of violations, the penalty will be at least $25,000. **A separate and distinct violation, for which the facility shall be subject to a civil penalty of up to $25,000, shall be deemed to have been committed on each day** during which any violation continues after receipt of written notice of the violation from the Department by the facility.

  IDPH will post on its website the names and violations of facilities against which civil penalties have been imposed.

  A facility's failure to adhere to the limits shall be reported by the Department to the Attorney General for enforcement, for which the Attorney General may bring action in a court of competent jurisdiction seeking injunctive relief and civil penalties**.**

  It is a defense to enforcement if the facility demonstrates that a health care emergency was in force at the time of the violation and immediate and diligent efforts were made to maintain required staffing levels.

Nurse Rights and Protections

- **50.**
  (a) **A nurse may object to, or refuse to participate in, any activity, policy, practice, assignment, or task if**: (1) in good faith the nurse reasonably believes it to be a **violation of** this Act; (2) the **nurse is not prepared** by education, training, or experience to fulfill the assignment without compromising the safety or any patient or jeopardizing the license of the nurse; **or** (3) the activity, et al, Is **outside** of the nurse's **scope of practice**.

  (b,c,d) A facility shall not retaliate, discriminate, or otherwise take adverse action based on:
  - the nurse's refusal to complete an assignment as described in subsection 50a;
  - such nurse's or person's opposition to any hospital policy, practice, or action that such nurse in good faith believes violates this Act;
  - a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any governmental entity, regulatory agency, or private accreditation body, made a civil claim or demand, or filed an action relating to the care, services, or conditions of the hospital or of any affiliated or related facilities;

  A facility shall not (1) Interfere with, restrain, or deny the exercise of, or attempt to deny the exercise of, a right conferred this Act; (2) Coerce or intimidate any individual regarding the exercise of, or an attempt to exercise, a right conferred by this Act.

Severability

- **55.**
  The provisions of this Act are severable under section 1.31 of the Statute on Statutes.

Amends the **Hospital Licensing Act, section Sec. 10.10. Nurse Staffing by Patient Acuity**, by adding the following:

(h) Delegation of nursing interventions by a registered professional nurse must be in accordance with the Nurse Practice Act.

(i) A hospital shall not mandate that a registered professional nurse delegate any element of the nursing process, including, but not limited to: nursing interventions, medication administration, nursing judgment, comprehensive patient assessment, development of the plan of care, or evaluation of care. **A delegation of a nursing intervention granted by a registered professional nurse shall not be re-delegated to another.**

(j) The Department shall establish procedures to ensure that the **documentation submitted** under this Section **is available for public inspection in its entirety**.

(k) **Nothing in this Section shall be construed to limit, alter, or modify the requirement of the Safe Patient Limits Act**.

Amends the **Nurse Practice Act**, by adding:

Sec. 50-15.15. Nursing judgment.

(a) Performance of the scope of practice of a direct care registered professional nurse requires the exercise of nursing judgment in the exclusive interests of the patient. The exercise of such nursing judgment, unencumbered by the commercial or revenue-generation priorities of a hospital, long term acute care hospital, or ambulatory surgical treatment center or other employing entity of a direct care registered professional nurse, is necessary to ensure safe, therapeutic, effective, and competent treatment of patients and is essential to protect the health and safety of the people of Illinois.

(b) The exercise of nursing judgment by a direct care registered professional nurse in the performance of the scope of practice of the registered professional nurse under Section 60-35 or the scope of practice of the advanced practice registered nurse under Section 65-30 shall be provided in the exclusive interests of the patient and shall not, for any purpose, be considered, relied upon, or represented as a job function, authority, responsibility, or activity undertaken in any respect for the purpose of serving the business, commercial, operational, or other institutional interests of the employer.

(c) No hospital, long term acute care hospital, ambulatory surgical treatment center, or other health care institution shall adopt policies that:

(1) limit a direct care registered professional nurse in performing duties that are part of the nursing process, including full exercise of nursing judgment in assessment, planning, implementation and evaluation of care;

(2) substitute recommendations, decisions, or outputs of health information technology, algorithms used to achieve a medical or nursing care objective at a facility, systems based on artificial intelligence or machine learning, or clinical practice guidelines for the independent nursing judgment of a direct care registered professional nurse or penalize a direct care registered professional nurse for overriding such technology or guidelines if, in that registered nurse's judgment, and in accordance with that registered nurse's scope of practice, it is in the best interest of the patient to do so; or

(3) limit a direct care registered professional nurse in acting as a patient advocate in the exclusive interests of the patient.