

*Below is the draft language we have filed with the Attorney General for the Patient Safety Act – a ballot initiative that would dramatically improve patient safety in Massachusetts hospitals by setting a safe maximum limit on the number of patients assigned to a nurse at one time, while also requiring hospitals to adjust nurses' patient assignments based on the specific needs of the patients.*

## **Patient Safety Act**

Be it enacted by the People, and by their authority, as follows:

Section 1. Chapter 111 of the General Laws is hereby amended by adding the following sections 229 to 235:

### Section 229. Definitions

As used in sections 229 through 235 the following words shall have the following meanings:

A patient is said to be assigned to a registered nurse if the registered nurse accepts responsibility for the patient's nursing care.

"Facility", a hospital licensed under Section 51, of Chapter 111 of the General Laws, the teaching hospital of the University of Massachusetts medical school, any licensed private or state-owned and state-operated general acute care hospital, an acute psychiatric hospital, an acute care specialty hospital, or any acute care unit within a state operated healthcare facility. This definition shall not include rehabilitation facilities or long-term care facilities.

"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, or other health care workers.

"Nursing care", care which falls within the scope of practice as defined in Section 80B of chapter 112 of the General Laws or is otherwise encompassed within recognized standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.

Section 230: The maximum number of patients assigned to a registered nurse in a facility shall not exceed the limits enumerated in this section. However, nothing shall preclude a facility from assigning fewer patients to a registered nurse than the limits enumerated in this section.

- A. In all units with intensive care patients and in all units with critical care patients, the maximum patient assignment is one (1) patient. A registered nurse in such units may accept a second intensive care or critical care patient if that nurse assesses that each patient's condition is stable.
- B. In all units with step-down/intermediate care patients, the maximum patient assignment of step-down/intermediate patients is three (3).
- C. In all units with post anesthesia care (PACU) patients the maximum patient assignment of PACU patients under anesthesia is one (1). The maximum patient assignment of PACU patients post anesthesia is two (2).

- D. In all units with operating room (OR) patients the maximum patient assignment of OR patients under anesthesia is one (1). The maximum patient assignment of OR patients post anesthesia is two (2).
- E. In the Emergency Department:
- The maximum patient assignment of critical care or intensive care patients is one (1). A registered nurse may accept a second critical care or intensive care patient if that nurse assesses that each patient's condition is stable.
  - The maximum patient assignment of urgent non-stable patients is two (2).
  - The maximum patient assignment of urgent stable patients is three (3).
  - The maximum patient assignment of non-urgent stable patients is four (4).
- F. As used in this subsection, couplet shall mean one mother and one baby. In all units with maternal child care patients:
- The maximum patient assignment of active labor patients is one (1) patient.
  - The maximum patient assignment during birth is one nurse responsible for the mother and, for each baby, one nurse whose sole responsibility is the baby.
  - The maximum patient assignment of immediate postpartum patients is one couplet, and in the case of multiple births, one nurse for each additional baby.
  - The maximum patient assignment of postpartum patients is six (6) patients or three (3) couplets.
  - The maximum patient assignment of intermediate care babies is three (3) babies. The nurse may accept a fourth intermediate care baby if the nurse assesses that each baby's condition is stable.
  - The maximum patient assignment of well-baby patients is six (6) babies.
- G. In all units with pediatric patients the maximum patient assignment of pediatric patients is four (4).
- H. In all units with psychiatric patients the maximum patient assignment of psychiatric patients is five (5).
- I. In all units with medical, surgical and telemetry patients the maximum patient assignment of medical, surgical and telemetry patients is four (4).
- J. In all units with observational/outpatient treatment patients the maximum patient assignment of observational/outpatient treatment patients is four (4).
- K. In all units with transitional care patients the maximum patient assignment of transitional care patients is five (5).
- L. In all units with rehabilitation patients the maximum patient assignment of rehabilitation patients is five (5).
- M. In any unit not otherwise listed the maximum patient assignment is four (4).

Section 231: Each facility shall implement the patient limits established by Section 230 without diminishing the staffing levels of its health care workforce.

Section 232: The Massachusetts Health Policy Commission/Department of Public Health shall promulgate regulations governing the implementation and operation of this act.

Section 233: Patient Acuity System. Each facility shall develop a patient acuity system, to determine if the maximum number of patients that may be assigned to a unit's registered nurses on a particular shift should be lower than the limits specified in Section 230, in which case that lower number will govern for the duration of that shift. The patient acuity system shall be written so as to be readily used and understood by registered nurses, and it shall consider criteria including but not limited to: (1) the need for specialized equipment and technology; (2) the intensity of nursing interventions required and the complexity of clinical nursing judgment needed to design, implement and evaluate patients' nursing care plans consistent with professional standards of care; (3) the skill mix of members of the health care workforce necessary to the delivery of quality care for each patient; and (4) the proximity of patients, the proximity and availability of other healthcare resources, and facility design. A facility's patient acuity system shall, prior to implementation, be certified by the Health Policy Commission/Department of Public Health as meeting the above criteria, and the Commission may issue regulations governing such systems, including their content and implementation.

Section 234: This act shall not be construed to impair any collective bargaining agreement or any other contract in effect as of July 1, 2015 that permits limits that are greater than the limits established by this act but shall have full force and effect upon the earliest expiration date of any such collective bargaining agreement or other contract. Nothing in this act shall prevent the enforcement of terms in a collective bargaining agreement or other contract that provides for lower limits than those established by this act.

Section 235: Enforcement. A facility's failure to adhere to the limits set by Section 230 and adjusted pursuant to Section 233, shall be reported by the Health Policy Commission/Department of Public Health to the Attorney General for enforcement, for which the Attorney General may bring a Superior Court action seeking injunctive relief and civil penalties. A separate and distinct violation, for which the facility shall be subject to a civil penalty of up to twenty-five thousand dollars, shall be deemed to have been committed on each day during which any violation continues after written notice thereof by the Health Policy Commission/Department of Public Health to the authority in charge of the facility is received. The requirements of this act, and its enforcement, shall be suspended during a state or nationally declared public health emergency.

Section 2: Severability. The provisions of this law are severable, and if any clause, sentence, paragraph or section of this law or an application thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid and such clause, sentence, paragraph, section or application shall be reformed and construed so that it would be valid to the maximum extent permitted.

Section 3: The provisions of Sections 229 to 235 shall be effective commencing on July 1, 2015, except that regulations required by Section 232 and 233 shall be promulgated to be effective no later than January 1, 2016.