

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 104

BY SENATORS LINDSAY, CAPUTO, AND ROMANO

[Introduced February 10, 2021; referred
to the Committee on Health and Human Resources]

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 and Transparency Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-20. Patient Safety & Transparency Act.

1 (a) As used in this section:

2 “Acuity-based patient classification system” means a standardized set of criteria based on
3 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 “Assessment tool” means a measurement system which compares the registered nurse
14 staffing level in each nursing department or unit against actual patient nursing care requirements
15 in order to review the accuracy of an acuity system.

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

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

21 “Direct-care registered nurse” means a registered nurse who is a member of the facility’s

22 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 “Facility” means a hospital, the teaching hospital of a medical school, any licensed private
25 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 “Nursing care” means care which falls within the scope of practice as prescribed by state
29 law or otherwise encompassed within recognized professional standards of nursing practice,
30 including assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.

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

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

42 (b) Each facility shall direct each unit nurse staffing committee to develop within one year
43 of the effective date of this section, a standardized acuity-based patient classification system to
44 be used to establish the number of direct care registered nurses needed to meet patient needs.
45 Each of these facilities shall designate a charge nurse to conduct a patient assessment in order
46 to assign direct-care registered nurses based on acuity level.

47 (c) Each facility shall annually submit to the Office of Health Facility Licensure and

48 Certification a prospective staffing plan, as developed by each unit nurse staffing committee
49 together with a written certification that the staffing plan is sufficient to provide adequate and
50 appropriate delivery of health care services to patients for the ensuing year and does all of the
51 following:

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

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

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

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

59 Each facility annually shall submit to the department an audit of the preceding year's
60 staffing plan as required by this subsection. The audit shall compare the staffing plan with
61 measurements of actual staffing as well as measurements of actual acuity for all units within the
62 facility.

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

66 (e) A facility shall designate one or more full-time registered nurses to be responsible for
67 the overall execution of resources to ensure sufficient registered nurse staffing is provided by the
68 facility, to be responsible for the overall quality assurance of nursing care as provided by the
69 facility; and to ensure the overall occupational health and safety of nursing staff employed by the
70 facility.

71 (f) For purposes of compliance with this section no registered nurse may be assigned to
72 a unit or a clinical area within a health facility unless that registered nurse has an appropriate
73 orientation in that clinical area sufficient to provide competent nursing care to the patients in that

74 area, and has demonstrated current competence in providing care in that area. There shall be a
75 written, organized education plan for providing orientation and competency validation for all
76 patient care personnel:

77 (1) All patient care personnel shall complete orientation to the hospital and their assigned
78 patients and patient care unit or units before receiving patient care assignments:

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

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

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

85 (B) A registered nurse who has demonstrated competency for the patient care unit shall
86 be responsible for the nursing care, and shall be assigned as a resource nurse for those registered
87 nurses who have not completed validation for that unit; and

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

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

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

95 (g) The setting of staffing standards for registered nurses is not to be interpreted as
96 justifying the understaffing of other critical health care workers, including licensed practical nurses
97 and unlicensed assistive personnel. The availability of these other health care workers enables
98 registered nurses to focus on the nursing care functions that only registered nurses, by law, are
99 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.