

# HOSPITAL SAFE STAFFING LEGISLATION FREQUENTLY ASKED QUESTIONS



## **What does this law do?**

This legislation will improve staffing levels in our hospitals, for all staff titles, as well as provide needed transparency and accountability from healthcare facilities. Hospitals will be required to create staffing committees which will be responsible for setting staffing plans for each units, shifts, nurses and ancillary staff. The language is clear that plans **MUST** indicate how many patients per staff. The law also provides meaningful enforcement that creates stiff consequences for understaffing.

## **Is this the legislation we've been fighting for?**

CWA has been fighting for safe staffing for nearly 30 years because we know that safe staffing saves lives. The COVID-19 crisis that continues to devastate our communities and overrun our hospitals, has made safe staffing even more urgent than before. And despite report after report of the deadly consequences of understaffing in hospitals and nursing homes, we have been unable to force the legislature to pass our bill to require healthcare staff-to-patient ratios.

However, after much negotiation, we have finally passed legislation that we believe is a meaningful step forward – it will improve staffing levels, for all staff titles, as well as provide needed transparency and accountability from healthcare facilities. While this isn't the bill we've long been fighting for, it is a big step forward and we are optimistic that it will bring real relief to our healthcare members on the frontlines. It is important to remember that this legislation will only be as strong as we are. The hospitals will not enforce this law, we will.

## **How does this bill help me?**

This legislation will bring much needed transparency, oversight and accountability for staffing in our healthcare facilities, improve staffing on the frontlines and give us critical tools to win greater improvements in staffing levels at the bargaining table.



## What exactly do the bills do?

- ✔ Require every hospital in the state, union and non-union alike, to create staffing committees composed of worker representatives and management, to **develop staffing plans including matrices, grids and ratios for each unit, each shift, and all staff titles.**
- ✔ Each hospital will be required to submit these plans directly to the Department of Health, which will be required to make them publicly available on the Department's website and will have the power to enforce them.
- ✔ Direct the Department of Health to **mandate staffing ratios in intensive and critical care units** as well as codify existing staffing ratio regulations that are on the books but not being followed in burn units, liver transplants and operating rooms.
- ✔ **Require DOH oversight and ensure significant transparency of staffing levels** by requiring staffing data to routinely be made publicly available to all on the Department's website.
- ✔ **Create meaningful enforcement** which allows the DOH to investigate and impose stiff civil penalties against any hospital that fails to 1) form a staffing committee and create a staffing plan 2) resolve violations of the plan.
- ✔ **Create an independent commission** of healthcare experts, labor and management that will evaluate the effectiveness of this bill, three years following implementation, in order to determine whether staffing has improved or additional reforms are necessary.

## When do these committees and plans take effect?

- ✔ By January 1, 2022 each hospital must establish a clinical staffing committee (either by creating one or assigning the functions of the clinical staffing committee to an existing committee) and the Department of Health must release staffing regulations for ICUs and critical care units.
- ✔ Plans must be adopted by the committees starting on July 1, 2022, and each year thereafter. DOH then has 30 days to post on the website as part of a hospital's health profile.
- ✔ Plans must be implemented no later than January 1, 2023, and each Jan 1 thereafter.
- ✔ By December 31 of each year, the DOH shall submit an annual report to the legislature including the number of complaints submitted to the department, the disposition, number of investigations and cost of investigations.



## What is the makeup of the committees?

Each clinical staffing committee must be made up of at least 50% labor and 50% management. The management representatives **MUST** include decision makers from the hospital. The labor side of the committees shall be chosen through their collective bargaining agreements or in non-union hospitals, by their peers.

## What do the committees do?

- ✔ Develop, oversee and implement the annual clinical staffing plan which should include a plan for each care unit, each shift, each staff level and shall include specific guidelines or ratios, matrices or grids indicating how many patients are assigned to each nurse/staff.
- ✔ Undertake a semi-annual review of the plan against patient needs and evidence-based staffing info.
- ✔ Review, assess and respond to complaints regarding violations of the staffing plan.

## How do the committees make decisions?

- ✔ The plans must be developed and adopted by consensus of the committee. To determine consensus, management has one vote and labor has one vote (regardless of how many committee members there are).
- ✔ Each plan or element of the plan must be voted on. If there is consensus, the plan or element is adopted.
- ✔ If consensus can't be reached, the CEO can adopt a plan or element of the plan as they see fit. However, in this case, the CEO must provide a written explanation of the elements of the plan that the committee was unable to reach consensus on, including the final proposals from each side, and this explanation will be posted on the DOH website.
- ✔ If a hospital is routinely unable to reach consensus, the DOH is required to investigate and can find a hospital in violation of this bill. The bill is designed to incentivize committees to reach consensus!



## What must be factored into the staffing plans?

When making the plan, the committee must take into account:

- ✔ Patient Needs: census, acuity, the need for 1:1s on specific units, special characteristics of the patient population (like age, language, communication skills, socio-economic factors, etc), measures to improve patient safety, nursing quality indicators
- ✔ Units/Staff: skill mix, availability, level of experience, specialty certification/training, measures to improve worker safety, availability of personnel supporting nursing services on the unit
- ✔ Units: need for specialized equipment, architecture and geography of the unit
- ✔ Hospital Finances and Resources
- ✔ Coverage to ensure staff can take meal and rest breaks, time off, and unplanned absences that are reasonably foreseeable
- ✔ Plans for limited short-term adjustments to account for unexpected changes in circumstances that are of limited duration.

## What if the hospital says they were understaffed because they were unable to find sufficient staff?

This legislation explicitly states that it is NOT a defense for a hospital to use this as a defense if a lack of staffing was foreseeable, could have been planned for, or arose due to typical staffing patterns, levels of absenteeism and time off. No more excuses!

## When do the changes to the staffing data reporting take place?

By December 31, 2022, the DOH must release regulations that provide a uniform way for hospitals to submit staffing data so that we can compare staffing levels across time and institutions. This data must be up and publicly available on the DOH website by July 1, 2023.

## There is already a staffing committee at my hospital. How will this bill help me?

While many of our hospitals already have staffing committees and plans, we know that it is often hard to hold hospitals accountable to complying with those plans. This bill will give us tools to actually ensure compliance with staffing plans and levy civil penalties against hospitals that have a pattern of understaffing. Furthermore, this legislation will ensure much greater transparency and accountability around staffing levels and patient care. CWA is committed to developing a robust system of enforcement to ensure this bill is implemented to the full extent of the law.



## How does this bill interact with my collective bargaining agreement?

- ✓ If a CBA provides for a staffing committee, the functions of this bill shall be incorporated to that committee and continue to function in the manner of the CBA.
- ✓ Staffing plans must comply with any staffing levels provided for in a CBA.
- ✓ Nothing in this bill will take away any rights granted through the CBA.

## Who do the staffing plans cover?

Staffing plans will cover each patient care unit, work shift and indicate how many patients are assigned to each RN, and the number of nurses and ancillary staff to be present on each shift and unit.

## What are the consequences for understaffing in hospitals?

The Department of Health is responsible for investigating a hospital which fails to resolve staffing complaints. If the DOH finds the hospital is in violation, the hospital has 45 days to fix the problem. If they do not, the DOH can levy up to \$2,000 per violation, and increase to \$5,000 per violation, for subsequent violations.

## What do I do if my shift is understaffed?

Once the committees are formed, they are responsible for having a process to receive and respond to complaints. You can either make a complaint directly to the committee or tell your union representative who can also file a complaint. For this law to work, we have to enforce it. If your shift's staffing isn't what is supposed to be, make sure to alert your union rep and the staffing committee. We are developing plans, per facility, for enforcement. We will be sharing more information on how to enforce this law in your hospital soon.

