Implementing Safe Staffing at CWA HC Facilities

August 5, 2021
Introduction
Agenda

1. Introduction
2. Overview of Hospital Legislation
3. Overview of Nursing Home Legislation
4. Timeline for Implementation
5. Questions & Answers
Overview of Hospital Legislation

Each hospital must establish and maintain a clinical staffing committee which is responsible for creating staffing plans for each hospital.

→ Clinical staffing plan for EACH care unit and SHIFT based on the needs of patients and staff.

→ Must have ‘specific guidelines or ratios, matrices or grids indicating how many patients are assigned to each RN and the number of nurses and ancillary staff to be present on each unit and shift.’
Overview of Hospital Legislation

Each hospital must establish and maintain a clinical staffing committee which is responsible for creating staffing plans for each hospital.

- Must develop plans with factors in mind including:
  - Coverage to ensure staff can take appropriate breaks and leaves of absences
  - Plans for emergencies that may lead to short staffing.

- These plans apply to all direct care staff.
Overview of Hospital Legislation

Each hospital must establish and maintain a clinical staffing committee which is responsible for creating staffing plans for each hospital.

- Plans must include:
  - Regulations already in the law regarding burn unit staffing, liver transplant staffing, and operating room circulating nurse staffing
  - New regulations on intensive care units to be released by the DOH on 1/1/2022.
How do committees work and who is on them?

The committee is made up of 50% labor and 50% management.

Membership of the committee is decided by the union.

Committees function by consensus: labor gets one vote, mgmt gets one vote. Two votes = consensus.

Clinical staffing plans, either in part or whole, are binding if adopted by consensus.

There are incentives and transparency provisions in the legislation to reach consensus.

If consensus is not reached, CEO can make the final say but MUST provide a written explanation of the elements of the clinical staffing plan that the committee was unable to agree on, and the final proposals and rationale.
How will staffing plans be enforced?

1. The DOH shall investigate violations including:
   - Failure to form a committee
   - Comply with requirements of the bill
   - Adopt all or part of a staffing plan approved by consensus
   - Conduct a semi-annual review of the plan
   - Submit the plan to the DOH and any updates or amendments.
How will staffing plans be enforced?

2. The DOH shall investigate unresolved complaints

► Complaints are first submitted to the committee.
► Complaints can be in regards to compliance with the staffing plan, staffing level or personnel assignments.
► By consensus, the committee can resolve a complaint or dismiss a complaint. If the committee leaves the complaint unresolved, it’s kicked up to the DOH for investigation.
How will staffing plans be enforced?

3. The DOH shall investigate hospitals where there is a pattern of failure to reach consensus on adoption of all or part of the plan or a pattern of failure to resolve staffing complaints.

If the DOH finds a violation, the DOH shall require the hospital to submit a corrective plan of action within 45 days.

If the Hospital fails to submit a corrective plan of action, or fails to implement it, the DOH can levy a civil penalty for all violations asserted against the hospital until the hospital submits or implements a corrective plan of action. Penalties are $2K per initial violation and up to $5K per subsequent violation.
What about emergencies? Or if they just “don’t have enough staff”?  

1. Emergencies: The DOH can consider whether an unforeseen emergency contributed to the hospital’s failure. An unforeseen emergency means an officially declared national, state or municipal emergency, when a hospital disaster plan is activated, or any other unforeseen disaster or catastrophic event that immediately affects the need for health care services.

2. In determining whether a hospital has violated its obligations under this law to comply with the plan, it is NOT a defense to say that they were unable to secure sufficient staff if lack of staffing was foreseeable, could be prudently planned for, or arose due to typical staffing patterns, levels of absenteeism and time off.
Overview of Hospital Legislation

Annual Report
The DOH has to submit an annual report to the legislature on December 31 of each year on complaints and staffing levels.

Data Reporting
This staffing data shall be reported to the DOH on a quarterly basis, electronically, and posted available to the public on the DOH website, in a uniform format. DOH releases regs by Dec. 31, 2022 and info is available to the public by July 1, 2023.
Overview of Hospital Legislation

Advisory Commission

→ Independent advisory commission, composed of 9 experts in staffing standards and quality of patient care including 3 experts in nursing practice, quality of nursing care or patient care standards, three representatives of unions representing nursing, and three representatives of hospitals. Appointments by Governor, Assembly and Senate.

→ The advisory commission shall convene from time to time to evaluate the effectiveness of the clinical staffing committees created by this bill.

→ This advisory committee shall submit a report to the legislature and to the public with their findings and recommendations for future legislative action, if any, by October 31, 2024, once three years of staffing plans have been submitted to the department pursuant to this bill.
How does this law fix staffing?

It is on us to implement this law to the full extent of the statute - the hospitals will not do it for us.

Together, we will create a robust system of enforcement that includes educating members on their rights and responsibilities, tracking and reporting violations, and working with the DOH to ensure full enforcement of the law.

This law is only as strong as we are.
Overview of Nursing Home Legislation

Key Points of Bill:

Beginning Jan 1, 2022 nursing homes must maintain a daily average staffing hours of 3.5 hours of care per resident, per day by a CNA or a licensed nurse, provided that out of the 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide, and no less than 1.1 hours of care per resident per day shall be provided by a licensed nurse.
Overview of Nursing Home Legislation

Key Points of Bill:

Requires the Commissioner to establish civil penalties for facilities not in compliance. Allows the commissioner to take into account "extraordinary circumstances", frequency of non compliance, existence of an acute labor supply shortage in a specific region.
Overview of Nursing Home Legislation

Key Points of Bill:

Says that in determining a violation, it shall not be a defense that the nursing home was able to secure sufficient staff if the lack of staffing was foreseeable and arose out of typical staffing patterns.

Penalties do not take effect until April 1, 2022.
How are we implementing the hospital legislation at CWA?

Implementation for each facility/local will differ by facility/local.

➔ This means that the first step is to get a sense of each of the facilities your local represents.

➔ Hae-Lin and Becca are reaching out by local to understand who we represent, whether there are committees there already, etc.
# Roles for Implementation

<table>
<thead>
<tr>
<th>Point Person per local</th>
<th>Navigators</th>
<th>Committee members</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(3–5 days per week)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Know the law in depth</td>
<td>- Disseminating information and materials, answering questions, and being responsible for making sure members know their rights and how to enforce.</td>
<td></td>
</tr>
<tr>
<td>- Overseeing navigators</td>
<td>- Taking in complaints on staffing or retaliation – and directing members on how to complain.</td>
<td></td>
</tr>
<tr>
<td>- Troubleshooting and supporting committees</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Committees must be established.

Plans must be adopted by the committees.

Plans must be implemented no later than January 1, 2023, and each Jan 1 thereafter.

DOH releases ICU regs.

DOH then has 30 days to post on the website as part of a hospital's health profile.
Timeline & Action Steps

August

1. Send template letters to hospitals to engage on committee.
2. Make recommendations on size and staff titles for committees, per facility.
3. Reach out to other Unions within the same facility and talk about a plan for moving together jointly.
Timeline & Action Steps

September

1. Identify local point person who can help with getting committees established.
2. Begin regular meeting of local point people.
3. Identify facility navigators and committee members.
Timeline & Action Steps

October and November

1. Aim to have committees established.
2. Begin developing staffing proposals and committee procedure proposals.
3. Aim to have training for committee members on rights and responsibilities.
Timeline & Action Steps

December

1. Aim to train navigators.

Winter/Spring 2022

1. Roll out to general membership.
2. Continue training for point people, navigators and general membership.