

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 616

S.P. 225

In Senate, February 11, 2003

### **An Act To Provide Safe Staffing Levels for Patients and To Retain Registered Nurses**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator PENDLETON of Cumberland.  
Cosponsored by Representative RICHARDSON of Brunswick and  
Senators: CARPENTER of York, President DAGGETT of Kennebec, KNEELAND of  
Aroostook, MARTIN of Aroostook, Representatives: ANDREWS of York, DAVIS of  
Falmouth, DUGAY of Cherryfield, PERRY of Calais.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 22 MRSA §1832** is enacted to read:

6 **§1832. Hospital staffing**

8 Staffing in all hospitals licensed under this chapter is subject to the provisions of this section.

10 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

14 A. "Acuity-based patient classification system" or "system" means a standardized set of criteria based on scientific data that acts as a measurement instrument that is used to predict registered nursing care requirements for individual patients based on the severity of patient illness, the need for specialized equipment and technology, the intensity of required nursing interventions and the complexity of clinical nursing judgment required to design, implement and evaluate the patient's nursing care plan consistent with professional standards. The system calculates, in a manner that can be readily understood and used, the number of direct-care registered nurses and the skill mix of nursing personnel required on a daily basis for each patient.

18 B. "Direct-care registered nurse" means a registered nurse who has accepted direct responsibility for carrying out medical regimens, nursing and other bedside care for patients.

22 2. Minimum staffing ratios. The minimum staffing ratios for general, acute and specialty hospitals are established in this subsection for direct-care registered nurses as follows:

24 A. For an intensive care unit, one nurse to every 2 patients;

26 B. For a critical care unit, one nurse to every 2 patients;

28 C. For a neonatal intensive care unit, one nurse to every 2 patients;

30 D. For a burn unit, one nurse to every 2 patients;

32 E. For a step-down, intermediate care unit, one nurse to every 3 patients;

2 F. For an operating room while under anesthesia, one nurse  
3 to every patient; and post anesthesia, one nurse to every 2  
4 patients;

5 G. For a post-anesthesia care unit while still under  
6 anesthesia, one nurse to every patient; and post anesthesia,  
7 one nurse to every 2 patients;

8 H. For an emergency department, one nurse to every 2  
9 patients; in emergency critical care, one nurse to every  
10 patient; and in emergency trauma, one nurse to every  
11 patient. In an emergency department, triage, radio or  
12 specialty registered nurses do not count in calculation of  
13 nurse staffing;

14 I. For labor and delivery in active labor, one nurse to  
15 every patient; in immediate postpartum, one nurse to every 2  
16 patients; in postpartum and well-baby nursery, one nurse to  
17 every 6 patients; and in immediate-care nursery, one nurse  
18 to every 4 patients;

19 J. For pediatrics, psychiatric, medical-surgical,  
20 telemetry, observational and outpatient units, one nurse to  
21 every 4 patients;

22 K. For a transitional care and rehabilitation unit, one  
23 nurse to every 5 patients; and

24 L. For specialty care of noncritical, stable-condition  
25 patients and any unit not listed above, one nurse to every 3  
26 patients.

27 Additional direct-care registered nurses must be added and the  
28 ratio adjusted to ensure staffing in accordance with acuity-based  
29 patient classification systems.

30 **3. Restriction.** The following activities are prohibited.

31 A. A hospital may not directly assign any unlicensed  
32 personnel to perform registered-nurse functions in lieu of  
33 care delivered by a licensed registered nurse.

34 B. Unlicensed personnel may not perform tasks that require  
35 the clinical assessment, judgment and skill of a licensed  
36 registered nurse, including, without limitation, nursing  
37 activities that require nursing assessment and judgment  
38 during implementation; physical, psychological and social  
39 assessment that require nursing judgment, intervention,  
40 referral or follow-up; formulation of a plan of nursing care  
41 and evaluation of the patient's response to the care  
42 provided; and administration of medications.

2           C. A hospital may not impose mandatory overtime  
3           requirements to meet the staffing ratios imposed in  
4           subsection 2.

6           4. Consumer protection. A hospital subject to this section  
7           shall daily post in a conspicuous place visible to the public the  
8           ratio of registered nursing staff to patients on each unit. A  
9           hospital subject to this section shall give to each patient  
10          admitted to the hospital for inpatient care a toll-free telephone  
11          number for the Bureau of Medical Services, Division of Licensing  
12          and Certification to report inadequate staffing or care.

14          5. Enforcement. A hospital that violates the provisions of  
15          this section is subject to enforcement action by the department,  
16          including suspension or revocation of license to operate, and is  
17          subject to a fine not to exceed \$25,000 per violation.

18          6. Rules. The department shall adopt rules to implement  
19          this section. By November 1, 2004 the department shall adopt  
20          rules for establishing an acuity-based patient classification  
21          system in hospitals. Rules adopted pursuant to this section are  
22          major substantive rules as defined in Title 5, chapter 375,  
23          subchapter 2-A.

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## SUMMARY

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29           This bill imposes minimum staffing requirements for  
30           nurse-to-patient staffing on all hospitals with an increase of  
31           nurses required based on the acuity of the patients. The bill  
32           directs the Department of Human Services to adopt rules, which  
33           are classified as major substantive rules, for establishing an  
34           acuity-based patient classification system in hospitals.