

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 72

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Eleanor Chávez and Katy M. Duhigg and Joanne J. Ferrary
and Elizabeth "Liz" Thomson

AN ACT

RELATING TO HEALTH CARE; REQUIRING THE HEALTH CARE AUTHORITY TO
PROMULGATE AND ENFORCE MINIMUM NURSING STAFF-TO-PATIENT RATIOS
IN LICENSED HOSPITALS; CREATING THE STAFFING ADVISORY
COMMITTEE; REQUIRING LICENSED HOSPITALS TO DEVELOP AND
IMPLEMENT POLICIES AND PROCEDURES; PROVIDING ADMINISTRATIVE
PENALTIES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Code is
enacted to read:

"~~[NEW MATERIAL]~~ HOSPITAL STAFFING RATIOS--DEFINITIONS.--As
used in Sections 1 through 5 of this 2025 act:

A. "critical care unit" means a unit that is
established to treat patients whose severity of medical
conditions require continuous monitoring and complex

underscoring material = new
~~[bracketed material] = delete~~

1 intervention by licensed nurses;

2 B. "hospital" means any public, private for-profit
3 or not-for-profit acute care, rehabilitation, limited services,
4 critical access, general or specific facility offering
5 inpatient services, nursing and overnight care seven days per
6 week on a twenty-four-hour basis that is capable of treating no
7 fewer than three patients for the purposes of diagnosing,
8 treating and providing medical, psychological or surgical care
9 for physical or mental illness, disease, injury, rehabilitative
10 conditions and pregnancies; and

11 C. "hospital unit" includes critical care units,
12 burn units, labor and delivery rooms, post-anesthesia service
13 areas, emergency departments, operating rooms, pediatric units,
14 step-down or intermediate care units, specialty care units,
15 telemetry units, general medical care units, subacute care
16 units and transitional inpatient care units."

17 SECTION 2. A new section of the Health Care Code is
18 enacted to read:

19 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--STAFFING
20 ADVISORY COMMITTEE--CREATION--ORGANIZATION.--

21 A. The "staffing advisory committee" is created for
22 the purpose of advising the authority on matters related to
23 nurse staffing as provided in this 2025 act. The committee
24 consists of eleven members that reflect a geographic
25 representation of the state, appointed by the authority as

.228893.4

1 follows:

2 (1) two members shall be private hospital
3 administrators or chief nursing officers;

4 (2) two members shall be public hospital
5 administrators or chief nursing officers;

6 (3) two members shall be nonmanagerial and
7 nonsupervisory employees of private hospitals involved in
8 direct patient care;

9 (4) two members shall be nonmanagerial and
10 nonsupervisory employees of public hospitals involved in direct
11 patient care;

12 (5) two members shall represent labor
13 organizations representing employees in public or private
14 hospitals; and

15 (6) one nonvoting advisory member shall
16 represent the authority.

17 B. The members of the staffing advisory committee
18 shall serve for terms of four years and no more than three
19 terms. A member appointed by the committee to fill a vacancy
20 shall serve the remainder of the term.

21 C. Term-length conditions for voting members
22 appointed to the staffing advisory committee are:

23 (1) for initial appointments, four members
24 shall serve for four-year terms, three members shall serve for
25 three-year terms, two members shall serve for two-year terms

.228893.4

underscored material = new
[bracketed material] = delete

1 and one member shall serve for a one-year term;

2 (2) for regular appointments after the initial
3 appointments, four-year terms;

4 (3) for a vacancy appointment, the balance of
5 the term; and

6 (4) a committee member shall continue to serve
7 on the committee until a replacement is appointed.

8 D. The staffing advisory committee shall elect
9 annually a chair and other officers as the committee determines
10 to be necessary.

11 E. The staffing advisory committee shall meet at a
12 frequency necessary for the committee to advise and provide
13 data for the authority to use in promulgating rules pursuant to
14 Section 3 of this 2025 act.

15 F. A majority of the staffing advisory committee
16 members currently serving constitutes a quorum.

17 G. The authority may remove from office a member of
18 the staffing advisory committee for neglect of duties."

19 SECTION 3. A new section of the Health Care Code is
20 enacted to read:

21 "[NEW MATERIAL] HOSPITALS--LICENSED NURSE-TO-PATIENT
22 RATIOS--AUTHORITY--COMMITTEE--POWERS AND DUTIES.--

23 A. The authority, with the advice of the staffing
24 advisory committee, may:

25 (1) ensure that staffing ratios promulgated by

.228893.4

1 the authority are maintained by a hospital;

2 (2) waive staffing ratios for rural general
3 acute care hospitals as needed to increase operational
4 efficiency; provided that doing so would not jeopardize the
5 health, safety and well-being of patients; and

6 (3) seek injunctive relief for violations of
7 this 2025 act.

8 B. By July 1, 2026, the authority, with the advice
9 of the staffing advisory committee, shall hold hearings and
10 promulgate rules regarding:

11 (1) minimum, specific and numerical staffing
12 ratios for hospitals licensed by the authority pursuant to the
13 Health Care Code, which shall include:

14 (a) licensed nurse-to-patient ratios by
15 licensed nurse classification and hospital unit; and

16 (b) unlicensed employee-to-patient
17 ratios by unlicensed classification and hospital unit for
18 unlicensed employees involved in direct patient care;

19 (2) rural general acute care hospital staffing
20 needs; provided that the ratios promulgated pursuant to
21 Paragraph (1) of this subsection may be adjusted to accommodate
22 these needs;

23 (3) emergency department staffing, which shall
24 include the ratios provided pursuant to Paragraph (1) of this
25 subsection but shall distinguish between regularly scheduled

.228893.4

1 core staff licensed nurses and additional licensed nurses
2 required to treat critical care patients; and

3 (4) the documented patient classification
4 systems to be used by hospitals in determining nursing care
5 requirements, including the:

6 (a) severity of the illness to be
7 treated;

8 (b) need for specialized equipment and
9 technology;

10 (c) complexity of clinical judgment
11 needed to design, implement and evaluate the patient care plan
12 and the ability for self-care; and

13 (d) licensure of the personnel required
14 for care.

15 C. The rules promulgated by the authority pursuant
16 to Subsection B of this section shall not replace existing
17 nurse-to-patient ratios and unlicensed employee-to-patient
18 ratios that may exist as provided by rule or existing state or
19 federal law as of the effective date of this 2025 act.

20 D. The authority, in consultation with the staffing
21 advisory committee, shall:

22 (1) review the rules adopted pursuant to
23 Subsection B of this section after five years following the
24 adoption of the rules; and

25 (2) report proposed rules to the legislature

underscoring material = new
[bracketed material] = delete

1 prior to promulgation."

2 SECTION 4. A new section of the Health Care Code is
3 enacted to read:

4 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--HOSPITAL
5 POLICIES AND PROCEDURES--TRAINING.--

6 A. A hospital shall:

7 (1) employ staff to meet the staffing ratios
8 established by the authority, which shall be the minimum number
9 of registered and licensed nurses and unlicensed employees
10 involved in direct patient care; and

11 (2) adopt written policies and procedures for
12 nursing staff and unlicensed employees involved in direct
13 patient care and temporary personnel, which shall require:

14 (a) training and orientation for
15 providing direct patient care;

16 (b) orientation for registered nurses
17 and unlicensed employees sufficient to provide competent care
18 to patients in a nursing unit or clinical area prior to
19 assigning the registered nurse or unlicensed employees to those
20 areas; provided that the registered nurse or unlicensed
21 employee also demonstrates competency in providing care in the
22 assigned area; and

23 (c) temporary personnel orientation and
24 competency evaluation.

25 B. A hospital may employ additional staff in

.228893.4

1 accordance with a documented patient classification system.

2 C. A hospital shall not:

3 (1) assign unlicensed personnel to perform
4 nursing functions in lieu of a registered nurse; or

5 (2) allow unlicensed personnel under the
6 direct clinical supervision of a registered nurse to perform
7 functions that require a substantial amount of scientific
8 knowledge and technical skills, including:

9 (a) administration of medication;

10 (b) venipuncture or intravenous therapy;

11 (c) parenteral or tube feedings;

12 (d) invasive procedures, including
13 inserting nasogastric tubes, inserting catheters and tracheal
14 suctioning;

15 (e) assessment of the condition of a
16 patient;

17 (f) educating patients and their
18 families concerning the patient's health care problems,
19 including post-discharge care; and

20 (g) moderate complexity laboratory
21 tests.

22 D. All hospitals shall adopt written policies and
23 procedures for training and orientation of nursing staff and
24 unlicensed employees involved in direct patient care. No
25 registered nurse or unlicensed employee involved in direct

.228893.4

underscoring material = new
~~[bracketed material] = delete~~

1 patient care shall be assigned to a nursing unit or clinical
2 area unless that nurse or unlicensed employee involved in
3 direct patient care has first received orientation in that
4 clinical area sufficient to provide competent care to patients
5 in that area and has demonstrated current competence in
6 providing care in that area. The written policies and
7 procedures for orientation of nursing staff and unlicensed
8 employees involved in direct patient care shall require that
9 all temporary personnel shall receive orientation and be
10 subject to competency validation.

11 E. Nothing in this section precludes a licensed or
12 registered nurse from working within that person's scope of
13 practice."

14 SECTION 5. A new section of the Health Care Code is
15 enacted to read:

16 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--VIOLATION--
17 ENFORCEMENT--REMEDIES.--

18 A. A hospital shall not deviate from any staffing
19 ratios established by the authority pursuant to this 2025 act
20 more than six times during a rolling thirty-day period. The
21 unit manager shall notify the staffing advisory committee and
22 the authority no later than ten days after each deviation.
23 Each subsequent deviation during the thirty-day period
24 constitutes a separate violation.

25 B. The authority shall, no later than July 1, 2026,

.228893.4

underscoring material = new
~~[bracketed material] = delete~~

1 adopt rules that establish a process for investigating and
2 remedying any violation of hospital staffing requirements. The
3 rules shall specify reporting requirements for deviations
4 consistent with this section and allow for the acceptance,
5 investigation and resolution of complaints from hospital staff,
6 exclusive representatives of hospital staff or members of the
7 public.

8 C. If the authority determines, whether through a
9 complaint process, hospital reporting or the authority's own
10 independent investigation, that a hospital has engaged in a
11 violation of staffing requirements, the authority shall:

12 (1) issue a warning for the first violation in
13 a four-year period;

14 (2) impose a civil penalty of one thousand
15 seven hundred fifty dollars (\$1,750) for the second violation
16 of the same provision in a four-year period;

17 (3) impose a civil penalty of two thousand
18 five hundred dollars (\$2,500) for the third violation of the
19 same provision in a four-year period; and

20 (4) impose a civil penalty of five thousand
21 dollars (\$5,000) for the fourth and subsequent violations of
22 the same provision in a four-year period.

23 D. If the authority finds that a hospital has
24 committed multiple violations of the staffing ratio
25 requirements of a similar nature, it shall require the hospital

.228893.4

underscoring material = new
~~[bracketed material] = delete~~

1 to submit a corrective action plan for approval. If a hospital
2 does not follow the corrective action plan approved by the
3 authority, the hospital shall be fined fifty thousand dollars
4 (\$50,000) every thirty days until the hospital complies.

5 E. The requirements of this section or any rules
6 adopted pursuant to this 2025 act may be enforced by a civil
7 action brought by any interested person or organization for
8 injunctive relief to enforce the provisions of this section or
9 any rules adopted hereunder. In the event such a suit is at
10 least partially successful, the court may award the interested
11 person or organization litigation costs and reasonable attorney
12 fees.

13 F. A hospital is not required to follow the
14 staffing ratios established by the authority in the event of:

- 15 (1) a national or state emergency requiring
16 the implementation of a facility disaster plan;
17 (2) sudden and unforeseen adverse weather
18 conditions; or
19 (3) an infectious disease epidemic suffered by
20 hospital staff.

21 G. The authority may grant waivers to rural or
22 critical access hospitals for portions of this 2025 act if the
23 hospital is able to document reasonable efforts to obtain
24 adequate staff."

25 SECTION 6. EMERGENCY.--It is necessary for the public

.228893.4

underscored material = new
~~[bracketed material] = delete~~

1 peace, health and safety that this act take effect immediately.

2 - 12 -

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25