

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 72

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

AN ACT

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

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 access hospital" means a hospital
that:

(1) provides twenty-four-hour emergency

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1 department services;

2 (2) has an average length of stay no longer
3 than ninety-six hours;

4 (3) has fewer than twenty-five acute care
5 inpatient beds; and

6 (4) is located at least thirty-five miles from
7 the closest hospital;

8 B. "critical care unit" means a unit that is
9 established to treat patients whose severity of medical
10 conditions require continuous monitoring and complex
11 intervention by licensed nurses;

12 C. "hospital" means any public, private for-profit
13 or not-for-profit acute care, rehabilitation, limited services,
14 critical access, general or specific facility offering
15 inpatient services, nursing and overnight care seven days per
16 week on a twenty-four-hour basis that is capable of treating no
17 fewer than three patients for the purposes of diagnosing,
18 treating and providing medical, psychological or surgical care
19 for physical or mental illness, disease, injury, rehabilitative
20 conditions and pregnancies. "Hospital" does not include
21 clinics or outpatient departments that do not provide inpatient
22 or emergency services;

23 D. "hospital network committee" means a staffing
24 committee established in a network of hospitals that are owned
25 or operated by the same entity;

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1 E. "hospital staffing committee" means a staffing
2 committee established in a single hospital;

3 F. "hospital unit" includes critical care units,
4 burn units, labor and delivery rooms, post-anesthesia service
5 areas, emergency departments, operating rooms, pediatric units,
6 step-down or intermediate care units, specialty care units,
7 telemetry units, general medical care units, subacute care
8 units and transitional inpatient care units;

9 G. "rural" means a rural county or unincorporated
10 area of a partially rural county, as designated by the health
11 resources and services administration of the United States
12 department of health and human services; and

13 H. "staffing committee" means nurse-led groups that
14 create staffing plans for hospital units based upon patient
15 population, acuity and needs and the skills and experience of
16 the hospital's staff."

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

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

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

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1 authority as follows:

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

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

6 (3) two members shall be rural hospital
7 directors of nursing or chief nursing officers;

8 (4) two members, at least one of whom shall be
9 a nurse, shall be nonmanagerial and nonsupervisory employees of
10 private hospitals involved in direct patient care;

11 (5) two members, at least one of whom shall be
12 a nurse, shall be nonmanagerial and nonsupervisory employees of
13 public hospitals involved in direct patient care;

14 (6) two members, at least one of whom shall be
15 a nurse, shall be nonmanagerial and nonsupervisory employees of
16 rural hospitals involved in direct patient care;

17 (7) one member shall represent nursing faculty
18 from a public university or community college; and

19 (8) one member shall represent the authority
20 and serve as chair.

21 B. Except as provided in Subsection C of this
22 section, the members of the statewide staffing advisory
23 committee shall serve for terms of two years and no more than
24 three terms. A member appointed by the committee to fill a
25 vacancy shall serve the remainder of the term.

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1 C. Term-length conditions for voting members
2 appointed to the statewide staffing advisory committee are:

3 (1) for initial appointments, five members
4 shall serve for three-year terms, four members shall serve for
5 two-year terms and four members shall serve for one-year terms;

6 (2) for regular appointments after the initial
7 appointments, two-year terms;

8 (3) for a vacancy appointment, the balance of
9 the term; and

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

12 D. The authority shall make all initial
13 appointments to the statewide staffing advisory committee by
14 September 1, 2025.

15 E. The statewide staffing advisory committee shall
16 elect other officers as the committee determines to be
17 necessary.

18 F. The statewide staffing advisory committee shall
19 meet at a frequency necessary for the committee to advise and
20 provide data for the authority to use in promulgating rules
21 pursuant to Section 3 of this 2025 act. The initial meeting of
22 the statewide staffing advisory committee shall occur no later
23 than October 1, 2025.

24 G. A majority of the statewide staffing advisory
25 committee members currently serving constitutes a quorum.

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1 H. The authority may remove from office a member of
2 the statewide staffing advisory committee for neglect of
3 duties."

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

6 "[NEW MATERIAL] HOSPITALS--LICENSED NURSE-TO-PATIENT
7 STAFFING RATIOS--AUTHORITY--COMMITTEE--POWERS AND DUTIES.--

8 A. Each hospital or hospital network may establish
9 a staffing committee or network staffing committee to evaluate
10 the hospital's staffing needs and make staffing
11 recommendations. Each hospital that establishes a staffing
12 committee or network staffing committee shall report the
13 staffing committee's recommendations to the statewide staffing
14 advisory committee for consideration.

15 B. The authority, with the advice of the statewide
16 staffing advisory committee, may:

17 (1) ensure that licensed nurse-to-patient
18 staffing ratios promulgated by the authority are maintained by
19 a hospital;

20 (2) consider unlicensed personnel that provide
21 direct patient care as a factor when setting licensed nurse-to-
22 patient staffing ratios;

23 (3) waive licensed nurse-to-patient staffing
24 ratios for rural general acute care and critical access
25 hospitals as needed to increase operational efficiency;

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1 provided that doing so would not jeopardize the health, safety
2 and well-being of patients; and

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

5 C. By October 1, 2026, the authority, with the
6 advice of the statewide staffing advisory committee, shall hold
7 hearings to promulgate rules regarding:

8 (1) minimum, specific and numerical licensed
9 nurse-to-patient staffing ratios for hospitals licensed by the
10 authority pursuant to the Health Care Code, which shall include
11 licensed nurse-to-patient staffing ratios by licensed nurse
12 classification and hospital unit. The authority may consider
13 unlicensed personnel that provide direct patient care as a
14 factor when setting licensed nurse-to-patient staffing ratios;

15 (2) rural general acute care and critical
16 access hospital staffing needs; provided that the ratios
17 promulgated pursuant to Paragraph (1) of this subsection may be
18 adjusted to accommodate these needs;

19 (3) emergency department staffing, which shall
20 include the ratios provided pursuant to Paragraph (1) of this
21 subsection but shall distinguish between regularly scheduled
22 core staff licensed nurses and additional licensed nurses
23 required to treat critical care patients. The authority may
24 consider unlicensed personnel that provide direct patient care
25 as a factor when setting licensed nurse-to-patient staffing

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1 ratios;

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

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

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

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

12 (d) licensure of the personnel required
13 for care; and

14 (5) circumstances in which it is permissible
15 for a hospital to be outside of the established licensed
16 nurse-to-patient staffing ratios, including:

17 (a) when the number of patients in a
18 hospital exceeds the licensed nurse-to-patient staffing ratios,
19 but only due to there being a patient or patients who: 1) have
20 been cleared for discharge but have not yet been discharged; or
21 2) are awaiting transfer to another facility;

22 (b) when a nurse calls out of a shift or
23 must leave a shift early; and

24 (c) the duration of time in which a
25 hospital unit may be outside of the established nurse-to-

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1 patient staffing ratios in one shift to allow time to bring in
2 on-call nurses and unlicensed employees to meet the hospital
3 unit's licensed nurse-to-patient staffing ratio.

4 D. The rules promulgated by the authority pursuant
5 to Subsection C of this section shall not replace existing
6 nurse-to-patient staffing ratios and unlicensed employee-to-
7 patient staffing ratios that may exist as provided by rule or
8 existing state or federal law as of the effective date of this
9 2025 act.

10 E. The authority, in consultation with the
11 statewide staffing advisory committee, shall review the rules
12 adopted pursuant to Subsection C of this section after five
13 years following the adoption of the rules.

14 F. The initial licensed nurse-to-patient staffing
15 ratios established by the authority shall become effective no
16 later than one hundred eighty days after the ratios are adopted
17 by rule; provided that the licensed nurse-to-patient staffing
18 ratios established by the authority shall not apply to
19 emergency departments until at least eighteen months after the
20 initial ratios are adopted by rule; and provided further that
21 an emergency department shall not be prevented from
22 implementing the licensed nurse-to-patient staffing ratios
23 earlier than eighteen months after the initial ratios are
24 adopted by rule."

25 SECTION 4. A new section of the Health Care Code is

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1 enacted to read:

2 "[NEW MATERIAL] HOSPITAL STAFFING RATIOS--HOSPITAL
3 POLICIES AND PROCEDURES--TRAINING.--

4 A. A hospital shall:

5 (1) be staffed at a level to meet the staffing
6 ratios established by the authority, which shall be the minimum
7 number of registered and licensed nurses involved in direct
8 patient care;

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

12 (a) training and orientation for
13 providing direct patient care;

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

21 (c) temporary personnel orientation and
22 competency evaluation; and

23 (3) submit a semiannual report, completed by
24 the hospital's chief nursing officer or director of nursing, to
25 the statewide advisory staffing committee and the authority.

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1 The report shall document the hospital's plans and efforts to
2 meet staffing ratios recommended by the statewide staffing
3 advisory committee.

4 B. A hospital may have additional staff in
5 accordance with a documented patient classification system.

6 C. A hospital shall not:

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

9 (2) allow unlicensed personnel under the
10 direct clinical supervision of a registered nurse to perform
11 functions that require a substantial amount of scientific
12 knowledge and technical skills, including:

13 (a) administration of medication;

14 (b) intravenous therapy;

15 (c) parenteral or tube feedings;

16 (d) invasive procedures, including
17 inserting nasogastric tubes and tracheal suctioning;

18 (e) assessment of the condition of a
19 patient; and

20 (f) educating patients and their
21 families concerning the patient's health care problems,
22 including post-discharge care.

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

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

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

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

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

19 A. A hospital shall provide written notice to the
20 authority and the statewide staffing advisory committee
21 whenever there are seven deviations from any staffing ratios
22 established by the authority pursuant to this 2025 act during a
23 rolling ninety-day period. The written notice shall:

24 (1) be provided within ten days of a seventh
25 deviation from the staffing ratios established by the authority

1 pursuant to this 2025 act;

2 (2) explain the cause of the deviations; and

3 (3) provide a plan to prevent future
4 deviations.

5 B. No later than October 1, 2026, the authority,
6 with the advice of the statewide staffing advisory committee,
7 shall hold a hearing to promulgate rules that establish a
8 process for investigating and remedying any violation of
9 hospital staffing requirements. The rules shall:

10 (1) specify reporting requirements for
11 deviations consistent with this section;

12 (2) allow for the acceptance, investigation
13 and resolution of complaints from hospital staff, exclusive
14 representatives of hospital staff or members of the public; and

15 (3) provide an administrative appeals process
16 for hospitals that are determined by the authority to be in
17 violation of the hospital staffing requirements. A hospital
18 shall have the right to judicial review of any final decision
19 made by the authority pursuant to this section.

20 C. If the authority determines, whether through a
21 complaint process, hospital reporting or the authority's own
22 independent investigation, that a hospital has engaged in a
23 violation of staffing requirements, the authority shall:

24 (1) issue a warning for the first violation in
25 a one-year period;

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1 (2) impose a civil penalty not to exceed one
2 thousand seven hundred fifty dollars (\$1,750) for the second
3 violation of the same provision in a one-year period;

4 (3) impose a civil penalty not to exceed two
5 thousand five hundred dollars (\$2,500) for the third violation
6 of the same provision in a one-year period; and

7 (4) impose a civil penalty not to exceed five
8 thousand dollars (\$5,000) for the fourth and subsequent
9 violations of the same provision in a one-year period.

10 D. If the authority finds that a hospital has
11 committed multiple violations of the staffing ratio
12 requirements of a similar nature, it shall require the hospital
13 to submit a corrective action plan for approval. If a hospital
14 does not follow the corrective action plan approved by the
15 authority, the hospital shall be fined in an amount not to
16 exceed fifty thousand dollars (\$50,000) every thirty days until
17 the hospital complies.

18 E. The requirements of this section or any rules
19 adopted pursuant to this 2025 act may be enforced by a civil
20 action brought by any interested person or organization for
21 injunctive relief to enforce the provisions of this section or
22 any rules adopted hereunder. In the event such a suit is at
23 least partially successful, the court may award the interested
24 person or organization litigation costs and reasonable attorney
25 fees.

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

3 (1) a national or state emergency requiring
4 the implementation of a facility disaster plan;

5 (2) sudden and unforeseen adverse weather
6 conditions;

7 (3) mass casualty incidents;

8 (4) pandemic, epidemic or endemic illnesses;

9 (5) circumstances that make staffing ratio
10 requirements unreasonable or unattainable due to limitations in
11 the workforce; or

12 (6) a staffing ratio conflicting with federal
13 or state law regarding the governance requirements of a
14 hospital.

15 G. The authority may grant waivers to rural or
16 critical access hospitals for portions of this 2025 act if the
17 hospital is able to document reasonable efforts to obtain
18 adequate staff."