

LFC Requester:

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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 1/29/25

Check all that apply:

Bill Number: HB138

Original  Correction Amendment  Substitute Sponsor: Rep. Cates  
Hospital Patient Safety ActAgency Name  
and Code HCA 630  
Number:Short  
Title:Person Writing  
Analysis:Phone: 505-475-2261 Email [Dan.lanari@hca.nm.gov](mailto:Dan.lanari@hca.nm.gov)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
-	-	-	-

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
-	-	-	-	-

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SGF	-	\$1,007.5	\$1,007.5	\$2,015.0	Recurring	State General Funds

<b>50% FF</b>	-	\$1,007.5	\$1,007.5	\$2,015.0	Recurring	Federal Match
<b>Total</b>	-	\$2,015.0	\$2,015.0	\$4,030.0	Recurring	SGF/FF

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Requires a licensed hospital to establish three different staffing committees, each of which is to develop staffing plans that prioritize patient safety. Directs the Department of Health to establish rules for the Hospital Patient Safety Act, including remedying violations and imposition of penalties.

**FISCAL IMPLICATIONS**

The Health Care Authority (HCA) Division of Health Improvement (DHI) estimates it would require both the addition of a new data reporting system application to track and manage the information, as well as the need for additional staff (16.5 FTE) to provide oversight to conduct surveys and complaint investigations and administrative support for those activities.

- HCA estimates that a new data management and reporting system will need to be developed and implemented to collect and manage the data. It is unknown what the cost of such an application would be.
- HCA estimates it would take 4.0 FTE health care surveyors to survey 50 hospitals annually for compliance with the Act and posted staffing for each hospital unit.
- While the number of HB72-related complaint violations is unknown, the HCA bases FTE estimates 200 complaint investigations, including necessary follow-ups, per year. HCA estimates it would take an additional 1 FTE complaint intake specialist, and 10 FTE nurse surveyors to investigate complaints annually.
- HCA estimates it would take a 0.50 FTE attorney to participate in or respond to court filings for injunctive relief.
- HCA estimates it would take 1.0 FTE annually to develop and maintain the HCA website for posting hospital reports, analyzing data and reporting performance, managing records requests, and associated tasks.
- Computer hardware for each additional FTE.
- Phone services for each additional FTE
- IT services and enterprise applications and subscriptions for each additional FTE
- Office space for each additional FTE
- Rule promulgation and hearing costs

# of FTE	Division	Title	Range	Hourly rate	Annual Salaries	Insurance Rate Bi-weekly	Group Insurance	PERA	FICA	RHC	Total Benefits	TOTAL Cost	FFP*	GF Need	FF Need	Notes	
14	DH	REGISTERED NURSE LEVEL	HH	40.45	#####	192.89	71,600	227,500	90,500	23,600	413,200.00	1,595,600	50%	797,800	797,800		
1	DH	HEALTHCARE SURVYR-O	65	29.99	62,600.00	192.89	5,100	12,000	4,800	1,300	23,200.00	85,800	50%	42,900	42,900		
0.5	DH	ATTORNEY 3	LH	52.07	54,400.00	192.89	2,500	10,500	4,200	1,100	18,400.00	72,800	50%	36,400	36,400		
1	DH	MGT ANALYST-A	65	29.99	62,600.00	192.89	5,100	12,000	4,800	1,300	23,200.00	85,800	50%	42,900	42,900		
16.5	TOTAL SALARIES & BENEFITS					1,362,000	771.56	84,400	282,000	104,300	27,300	478,000	1,840,000		920,000	920,000	

  

Other Operating Costs:	per person	3 fte	GF	FF
542100 - Instate M & F	200	3,300	1,650	1,650
542200 - Instate M & L	600	9,900	4,950	4,950
544100 - Office Supplies	1,200	19,800	9,900	9,900
544900 - Invert Exempt	5,600	92,400	46,200	46,200
546600 - Telecomm	3,000	49,500	24,750	24,750
	10,600	174,900	87,450	87,450

\*Federal Match Rate if applicable, please enter % on these cells

\*formula not working\*

	TC	GF	FF
TOTAL Salaries and Benefits	2,014,900	1,007,450	1,007,450

## SIGNIFICANT ISSUES

The bill is not clear on who the oversight authority for this rule will be. The bill refers to “the department” multiple times but does not specify what agency or division that is. Specifically, the bill states all hospitals licensed pursuant to the Public Health Act shall, as a condition of licensure, **submit to the department** a hospital service staffing plan that has been developed and approved by the hospital's hospital service staffing committee. Additionally, the bill states: **the department** shall promulgate rules that establish a process for reporting, investigating and remedying violations of the Hospital Patient Safety Act, including the imposition of penalties. The New Mexico Department of Health is not the licensing and regulatory oversight agency for hospitals; that authority lies with the New Mexico Health Care Authority’s Division of Health Improvement.

Currently, in accordance with Center for Medicare and Medicaid Services (CMS), the Director of Nursing (DON) makes decisions about nurse staffing levels and is responsible for determining the type and number of nursing staff necessary to provide nursing care for all areas of the hospital. Determining appropriate staffing for any given unit or facility is complex and should consider many variables including, but not limited to patient complexity and needs; the experience, education, qualifications, skills and competency of available staff; shift-to-shift variables; and patient turnover. However, staffing committees as referenced in this bill are not in conflict with the CMS guidelines.

## PERFORMANCE IMPLICATIONS

DHI does not have an existing performance measure around this workload. HB138 will impact the current workload of the Division of Health Improvement. It will require the promulgation of new regulations and require an additional 16.5 FTE to monitor compliance, process and investigate complaints, and enforcement actions.

There is evidence on the positive impact of nurse/patient ratios on patient outcomes. One study showed that reducing the number of patients assigned to a nurse by one patient reduced mortality, reduced rate of readmissions, and shortened length of stay. Overall, it was a positive return on investment in this study. Another study also found that lower nurse/patient ratios improve outcomes and has a positive return on investment, but also found that it improves nurse retention, an important factor in a state with a nurse shortage.

<https://pubmed.ncbi.nlm.nih.gov/33989553/>

<https://pmc.ncbi.nlm.nih.gov/articles/PMC8655582/>

California has a state law on nurse/patient staffing ratios. The research on the impact of California's law shows that nurses on average care for 1-2 fewer patients than nurses in other states. It has had an overall positive impact on the mortality of patients in California hospitals. It also showed burnout and job dissatisfaction were lower in California when compared to other states. Recent research from California also found nurse/patient staffing ratios increased the amount of observed RN hours per patient day or increased the amount of time nurses spent on direct patient care.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2908200/>

<https://pmc.ncbi.nlm.nih.gov/articles/PMC9007864/>

Another performance implication to consider is the impact on the nursing workforce in New Mexico. A recent systemic review provides evidence that nurse/patient ratios positively affected overall job satisfaction and reduced occupational injuries and illnesses of nurses and licensed practical nurses.

<https://pmc.ncbi.nlm.nih.gov/articles/PMC9291075/>

Financial implications hospitals are an additional performance implication due to the potential need to add more clinical staff to their payroll budget. An 8-year study out of California evaluated hospital margins along with the implementation of mandated nurse/patient staffing ratios. The study was unable to determine a relationship between a decline in hospital margins and mandated nurse/patient staffing ratios.

<https://www.chcf.org/wp-content/uploads/2017/12/PDF-AssessingCANurseStaffingRatios.pdf>

The state of Washington passed a very similar bill in 2023 that mandated hospital staffing committees internally. The hospitals are then required to submit those plans and ratios to their licensing agency on a regular basis. No data is available yet on its impact on patient safety, staff satisfaction, staff safety, or hospital financial impact.

[WSHA-HSC-FAQ\\_FINAL\\_2.28.24.pdf](#)

HB138 permits hospitals to develop their own staffing committees and ratios. While this allows for hospital flexibility and ease for nurse-to-patient ratio implementation, significant variation of nursing ratios across the state is likely, and the status quo of nurse-to-patient ratios is possible.

#### **ADMINISTRATIVE IMPLICATIONS**

- Promulgate rules, monitor, investigate complaints of alleged violations.
- Onsite surveys
- Ensure hospital policy and implementation for staffing ratios

Monitoring compliance with HB138 would be a new and additional workload. Currently, the Division of Health Improvement surveys hospitals either upon initial licensure of the hospital, when directed to do so by CMS, or when a state complaint is received. The Division of Health Improvement would need additional staff to monitor compliance with all requirements of HB138 and investigate complaints. Funds would be needed for salary and benefits, as well as rent, supplies, equipment, communication, travel, cars, copying, and information technology for new staff. Contract funds would also be needed to cover the costs of fair hearings for contested civil monetary penalties and other sanctions imposed by The Division of Health Improvement to enforce the provisions of the Act. Additional attorney time would be needed to participate in or respond to court filings for injunctive relief.

The estimated IT costs include: laptop computer, smartphone, and standard Microsoft Office applications for each of the new staff outlined above. The numbers are included in the operating budget tables. HB138 takes effect immediately, however it is assumed that costs will not be incurred until state fiscal year 2026. A 50/50 federal fund to general fund split is assumed as that is what the table indicated for the other costs.

As noted above, a new data management and reporting system will need to be developed and implemented to ensure that hospitals have a way to track and report their staffing levels and plans to demonstrate compliance with the rules outlined in this bill. Detailed discovery sessions will be necessary to capture the requirements of this system before a cost and timeline could be estimated.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to HB72 Minimum Nursing Staff-to-Patient Ratios. The key difference being HB72 would develop statewide staffing ratios and HB138 would result in each hospital developing its own staffing committee and ratios. Both bills would require significant resources of the Health Care Authority to provide oversight of compliance.

### **TECHNICAL ISSUES**

None

### **OTHER SUBSTANTIVE ISSUES**

This bill relates closely to a staffing bill passed in the State of Washington in 2023. Similarly, that bill required hospitals to develop internal staffing committees and submit those plans of compliance to their state licensing agency. According to a publication from the Washington Hospital Association, their bill was legislative compromise to statewide nurse-to-patient ratio requirements.

[Hospital Staffing Interpretive Statement](#)

[Hospital Staffing | Washington State Department of Health](#)

[Hospital Staffing Requirements - Washington State Hospital Association](#)

### **ALTERNATIVES**

None

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

### **AMENDMENTS**

None