

112TH CONGRESS
1ST SESSION

H. R. 2187

To amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2011

Ms. SCHAKOWSKY (for herself, Mr. STARK, Mr. ELLISON, Ms. LEE of California, Ms. DELAURO, Ms. BALDWIN, Mr. RANGEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RYAN of Ohio, Mr. LYNCH, Ms. NORTON, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Nurse Staffing Standards for Patient Safety and Quality
6 Care Act of 2011”.

1 (b) FINDINGS.—Congress finds the following:

2 (1) The Federal Government has a substantial
3 interest in promoting quality care and improving the
4 delivery of health care services to patients in health
5 care facilities in the United States.

6 (2) Recent changes in health care delivery sys-
7 tems that have resulted in higher acuity levels
8 among patients in health care facilities increase the
9 need for improved quality measures in order to pro-
10 tect patient care and reduce the incidence of medical
11 errors.

12 (3) Inadequate and poorly monitored registered
13 nurse staffing practices that result in too few reg-
14 istered nurses providing direct care jeopardize the
15 delivery of quality health care services.

16 (4) Numerous studies have shown that patient
17 outcomes are directly correlated to direct care reg-
18 istered nurse staffing levels, including a 2002 Joint
19 Commission on Accreditation of Healthcare Organi-
20 zations report that concluded that the lack of direct
21 care registered nurses contributed to nearly a quar-
22 ter of the unanticipated problems that result in in-
23 jury or death to hospital patients.

24 (5) Requirements for direct care registered
25 nurse staffing ratios will help address the registered

1 nurse shortage in the United States by aiding in re-
2 cruitment of new registered nurses and improving
3 retention of registered nurses who are considering
4 leaving direct patient care because of demands cre-
5 ated by inadequate staffing.

6 (6) Establishing adequate minimum direct care
7 registered nurse-to-patient ratios that take into ac-
8 count patient acuity measures will improve the deliv-
9 ery of quality health care services and guarantee pa-
10 tient safety.

11 (7) Establishing safe staffing standards for di-
12 rect care registered nurses is a critical component of
13 assuring that there is adequate hospital staffing at
14 all levels to improve the delivery of quality care and
15 protect patient safety.

16 **SEC. 2. MINIMUM DIRECT CARE REGISTERED NURSE**
17 **STAFFING REQUIREMENT.**

18 (a) MINIMUM DIRECT CARE REGISTERED NURSE
19 STAFFING REQUIREMENTS.—The Public Health Service
20 Act (42 U.S.C. 201 et seq.) is amended by adding at the
21 end the following new title:

1 **“TITLE XXXIV—MINIMUM DI-**
2 **RECT CARE REGISTERED**
3 **NURSE STAFFING REQUIRE-**
4 **MENT**

5 **“SEC. 3401. MINIMUM NURSE STAFFING REQUIREMENT.**

6 “(a) STAFFING PLAN.—

7 “(1) IN GENERAL.—A hospital shall implement
8 a staffing plan that—

9 “(A) provides adequate, appropriate, and
10 quality delivery of health care services and pro-
11 tects patient safety; and

12 “(B) is consistent with the requirements of
13 this title.

14 “(2) EFFECTIVE DATES.—

15 “(A) IMPLEMENTATION OF STAFFING
16 PLAN.—Subject to subparagraph (B), the re-
17 quirements under paragraph (1) shall take ef-
18 fect not later than 1 year after the date of the
19 enactment of this title.

20 “(B) APPLICATION OF MINIMUM DIRECT
21 CARE REGISTERED NURSE-TO-PATIENT RA-
22 TIOS.—The requirements under subsection (b)
23 shall take effect as soon as practicable, as de-
24 termined by the Secretary, but not later than 2
25 years after the date of the enactment of this

1 title, or in the case of a hospital in a rural area
2 (as defined in section 1886(d)(2)(D) of the So-
3 cial Security Act), not later than 4 years after
4 the date of the enactment of this title.

5 “(b) MINIMUM DIRECT CARE REGISTERED NURSE-
6 TO-PATIENT RATIOS.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (4) and other provisions of this section, a hos-
9 pital’s staffing plan shall provide that, at all times
10 during each shift within a unit of the hospital, a di-
11 rect care registered nurse may be assigned to not
12 more than the following number of patients in that
13 unit:

14 “(A) One patient in trauma emergency
15 units.

16 “(B) One patient in operating room units,
17 provided that a minimum of 1 additional person
18 serves as a scrub assistant in such unit.

19 “(C) Two patients in critical care units, in-
20 cluding neonatal intensive care units, emer-
21 gency critical care and intensive care units,
22 labor and delivery units, coronary care units,
23 acute respiratory care units, postanesthesia
24 units, and burn units.

1 “(D) Three patients in emergency room
2 units, pediatrics units, stepdown units, telem-
3 etry units, antepartum units, and combined
4 labor, deliver, and postpartum units.

5 “(E) Four patients in medical-surgical
6 units, intermediate care nursery units, acute
7 care psychiatric units, and other specialty care
8 units.

9 “(F) Five patients in rehabilitation units
10 and skilled nursing units.

11 “(G) Six patients in postpartum (3 cou-
12 plets) units and well-baby nursery units.

13 “(2) SIMILAR UNITS WITH DIFFERENT
14 NAMES.—The Secretary may apply minimum direct
15 care registered nurse-to-patient ratios established in
16 paragraph (1) for a hospital unit referred to in such
17 paragraph to a type of hospital unit not referred to
18 in such paragraph if such type of hospital unit pro-
19 vides a level of care to patients whose needs are
20 similar to the needs of patients cared for in the hos-
21 pital unit referred to in such paragraph.

22 “(3) RESTRICTIONS.—

23 “(A) PROHIBITION AGAINST AVERAGING.—
24 A hospital shall not average the number of pa-
25 tients and the total number of direct care reg-

1 istered nurses assigned to patients in a hospital
2 unit during any 1 shift or over any period of
3 time for purposes of meeting the requirements
4 under this subsection.

5 “(B) PROHIBITION AGAINST IMPOSITION
6 OF MANDATORY OVERTIME REQUIREMENTS.—A
7 hospital shall not impose mandatory overtime
8 requirements to meet the hospital unit direct
9 care registered nurse-to-patient ratios required
10 under this subsection.

11 “(C) RELIEF DURING ROUTINE AB-
12 SENCES.—A hospital shall ensure that only a
13 direct care registered nurse may relieve another
14 direct care registered nurse during breaks,
15 meals, and other routine, expected absences
16 from a hospital unit.

17 “(4) ADJUSTMENT OF RATIOS.—

18 “(A) IN GENERAL.—If necessary to protect
19 patient safety, the Secretary may prescribe reg-
20 ulations that—

21 “(i) increase minimum direct care reg-
22 istered nurse-to-patient ratios under this
23 subsection to further limit the number of
24 patients that may be assigned to each di-
25 rect care nurse; or

1 “(ii) add minimum direct care reg-
2 istered nurse-to-patient ratios for units not
3 referred to in paragraphs (1) and (2).

4 “(B) CONSULTATION.—Such regulations
5 shall be prescribed after consultation with af-
6 fected hospitals and registered nurses.

7 “(5) RELATIONSHIP TO STATE-IMPOSED RA-
8 TIOS.—Nothing in this title shall preempt State
9 standards that the Secretary determines to be at
10 least equivalent to Federal requirements for a staff-
11 ing plan established under this title. Minimum direct
12 care registered nurse-to-patient ratios established
13 under this subsection shall not preempt State re-
14 quirements that the Secretary determines are at
15 least equivalent to Federal requirements for a staff-
16 ing plan established under this title.

17 “(6) EXEMPTION IN EMERGENCIES.—The re-
18 quirements established under this subsection shall
19 not apply during a state of emergency if a hospital
20 is requested or expected to provide an exceptional
21 level of emergency or other medical services. The
22 Secretary shall issue guidance to hospitals that de-
23 scribes situations that constitute a state of emer-
24 gency for purposes of the exemption under this para-
25 graph.

1 “(c) DEVELOPMENT AND REEVALUATION OF STAFF-
2 ING PLAN.—

3 “(1) CONSIDERATIONS IN DEVELOPMENT OF
4 PLAN.—In developing the staffing plan, a hospital
5 shall provide for direct care registered nurse-to-pa-
6 tient ratios above the minimum direct care reg-
7 istered nurse-to-patient ratios required under sub-
8 section (b) if appropriate based upon consideration
9 of the following factors:

10 “(A) The number of patients and acuity
11 level of patients as determined by the applica-
12 tion of an acuity system (as defined in section
13 3406(1)), on a shift-by-shift basis.

14 “(B) The anticipated admissions, dis-
15 charges, and transfers of patients during each
16 shift that impacts direct patient care.

17 “(C) Specialized experience required of di-
18 rect care registered nurses on a particular unit.

19 “(D) Staffing levels and services provided
20 by licensed vocational or practical nurses, li-
21 censed psychiatric technicians, certified nurse
22 assistants, or other ancillary staff in meeting
23 direct patient care needs not required by a di-
24 rect care registered nurse.

1 “(E) The level of technology available that
2 affects the delivery of direct patient care.

3 “(F) The level of familiarity with hospital
4 practices, policies, and procedures by temporary
5 agency direct care registered nurses used dur-
6 ing a shift.

7 “(G) Obstacles to efficiency in the delivery
8 of patient care presented by physical layout.

9 “(2) DOCUMENTATION OF STAFFING.—A hos-
10 pital shall specify the system used to document ac-
11 tual staffing in each unit for each shift.

12 “(3) ANNUAL REEVALUATION OF PLAN AND
13 ACUITY SYSTEM.—

14 “(A) IN GENERAL.—A hospital shall annu-
15 ally evaluate—

16 “(i) its staffing plan in each unit in
17 relation to actual patient care require-
18 ments; and

19 “(ii) the accuracy of its acuity system.

20 “(B) UPDATE.—A hospital shall update its
21 staffing plan and acuity system to the extent
22 appropriate based on such evaluation.

23 “(4) TRANSPARENCY.—

24 “(A) IN GENERAL.—Any acuity-based pa-
25 tient classification system adopted by a hospital

1 under this section shall be transparent in all re-
2 spects, including disclosure of detailed docu-
3 mentation of the methodology used to predict
4 nursing staffing, identifying each factor, as-
5 sumption, and value used in applying such
6 methodology.

7 “(B) PUBLIC AVAILABILITY.—The Sec-
8 retary shall establish procedures to provide that
9 the documentation submitted under subsection
10 (e) is available for public inspection in its en-
11 tirety.

12 “(5) REGISTERED NURSE PARTICIPATION.—A
13 staffing plan of a hospital shall be developed and
14 subsequent reevaluations shall be conducted under
15 this subsection on the basis of input from direct care
16 registered nurses at the hospital or, where such
17 nurses are represented through collective bargaining,
18 from the applicable recognized or certified collective
19 bargaining representative of such nurses. Nothing in
20 this title shall be construed to permit conduct pro-
21 hibited under the National Labor Relations Act or
22 under the Federal Labor Relations Act.

23 “(d) ACUITY TOOL.—

24 “(1) IN GENERAL.—Not later than 2 years
25 after the date of enactment of this title, the Sec-

1 retary shall develop a process to establish a national
2 acuity tool that provides a transparent method for
3 establishing nurse staffing requirements that exceed
4 the minimum hospital unit direct care registered
5 nurse-to-patient ratios required under subsection
6 (b).

7 “(2) IMPLEMENTATION.—Each hospital unit
8 shall adopt and implement the national acuity tool
9 described in paragraph (1), and provide staffing
10 based on such tool. Any additional direct care reg-
11 istered nursing staffing above the hospital unit di-
12 rect care registered nurse-to-patient ratios described
13 in subsection (b) shall be assigned in a manner de-
14 termined by such national acuity tool.

15 “(e) SUBMISSION OF PLAN TO SECRETARY.—A hos-
16 pital shall submit to the Secretary its staffing plan and
17 any annual updates under subsection (c)(3)(B). A feder-
18 ally operated hospital may submit its staffing plan
19 through the department or agency operating the hospital.

20 **“SEC. 3402. POSTING, RECORDS, AND AUDITS.**

21 “(a) POSTING REQUIREMENTS.—In each unit, a hos-
22 pital shall post a uniform notice in a form specified by
23 the Secretary in regulation that—

24 “(1) explains requirements imposed under sec-
25 tion 3401;

1 “(2) includes actual direct care registered
2 nurse-to-patient ratios during each shift; and

3 “(3) is visible, conspicuous, and accessible to
4 staff, patients, and the public.

5 “(b) RECORDS.—

6 “(1) MAINTENANCE OF RECORDS.—Each hos-
7 pital shall maintain accurate records of actual direct
8 care registered nurse-to-patient ratios in each unit
9 for each shift for no less than 3 years. Such records
10 shall include—

11 “(A) the number of patients in each unit;

12 “(B) the identity and duty hours of each
13 direct care registered nurse assigned to each
14 patient in each unit in each shift; and

15 “(C) a copy of each notice posted under
16 subsection (a).

17 “(2) AVAILABILITY OF RECORDS.—Each hos-
18 pital shall make its records maintained under para-
19 graph (1) available to—

20 “(A) the Secretary;

21 “(B) registered nurses and their collective
22 bargaining representatives (if any); and

23 “(C) the public under regulations estab-
24 lished by the Secretary, or in the case of a fed-
25 erally operated hospital, under section 552 of

1 title 5, United States Code (commonly known
2 as the ‘Freedom of Information Act’).

3 “(c) AUDITS.—The Secretary shall conduct periodic
4 audits to ensure—

5 “(1) implementation of the staffing plan in ac-
6 cordance with this title; and

7 “(2) accuracy in records maintained under this
8 section.

9 **“SEC. 3403. MINIMUM DIRECT CARE LICENSED PRACTICAL**
10 **NURSE STAFFING REQUIREMENTS.**

11 “(a) ESTABLISHMENT.—A hospital’s staffing plan
12 shall comply with minimum direct care licensed practical
13 nurse staffing requirements that the Secretary establishes
14 for units in hospitals. Such staffing requirements shall be
15 established not later than 18 months after the date of the
16 enactment of this title, and shall be based on the study
17 conducted under subsection (b).

18 “(b) STUDY.—Not later than 1 year after the date
19 of the enactment of this title, the Secretary, acting
20 through the Director of the Agency for Healthcare Re-
21 search and Quality, shall complete a study of licensed
22 practical nurse staffing and its effects on patient care in
23 hospitals. The Director may contract with a qualified enti-
24 ty or organization to carry out such study under this para-
25 graph. The Director shall consult with licensed practical

1 nurses and organizations representing licensed practical
2 nurses regarding the design and conduct of the study.

3 “(c) APPLICATION OF REGISTERED NURSE PROVI-
4 SIONS TO LICENSED PRACTICAL NURSE STAFFING RE-
5 QUIREMENTS.—Paragraphs (2), (3), (4)(A), and (5) of
6 section 3401(b), section 3401(c), and section 3402 shall
7 apply to the establishment and application of direct care
8 licensed practical nurse staffing requirements under this
9 section in the same manner that they apply to the estab-
10 lishment and application of direct care registered nurse-
11 to-patient ratios under sections 3401 and 3402.

12 “(d) EFFECTIVE DATE.—The requirements of this
13 section shall take effect as soon as practicable, as deter-
14 mined by the Secretary, but not later than 2 years after
15 the date of the enactment of this title, or in the case of
16 a hospital in a rural area (as defined in section
17 1886(d)(2)(D) of the Social Security Act), not later than
18 4 years after the date of the enactment of this title.

19 **“SEC. 3404. ADJUSTMENT IN REIMBURSEMENT.**

20 “(a) MEDICARE REIMBURSEMENT.—The Secretary
21 shall adjust payments made to hospitals (other than feder-
22 ally operated hospitals) under title XVIII of the Social Se-
23 curity Act in an amount equal to the net amount of addi-
24 tional costs incurred in providing services to Medicare
25 beneficiaries that are attributable to compliance with re-

1 requirements imposed under sections 3401 through 3403.
2 The amount of such payment adjustments shall take into
3 account recommendations contained in the report sub-
4 mitted by the Medicare Payment Advisory Commission
5 under subsection (c).

6 “(b) AUTHORIZATION OF APPROPRIATION FOR FED-
7 ERALLY OPERATED HOSPITALS.—There are authorized to
8 be appropriated such additional sums as are required for
9 federally operated hospitals to comply with the additional
10 requirements established under sections 3401 through
11 3403.

12 “(c) MEDPAC REPORT.—Not later than 2 years after
13 the date of the enactment of this title, the Medicare Pay-
14 ment Advisory Commission (established under section
15 1805 of the Social Security Act) shall submit to Congress
16 and the Secretary a report estimating total costs and sav-
17 ings attributable to compliance with requirements imposed
18 under sections 3401 through 3403. Such report shall in-
19 clude recommendations on the need, if any, to adjust reim-
20 bursement for Medicare payments under subsection (a).

21 **“SEC. 3405. WHISTLEBLOWER AND PATIENT PROTECTIONS.**

22 “(a) OBJECTION TO OR REFUSAL OF ASSIGNMENT.—
23 A nurse may object to, or refuse to participate in, any
24 activity, policy, practice, assignment or task if in good
25 faith—

1 “(1) the nurse reasonably believes it to be in
2 violation of section 3401 or 3403; or

3 “(2) the nurse is not prepared by education,
4 training, or experience to fulfill the assignment with-
5 out compromising the safety of any patient or jeop-
6 ardizing the license of the nurse.

7 “(b) RETALIATION FOR OBJECTION TO OR REFUSAL
8 OF ASSIGNMENT BARRED.—

9 “(1) NO DISCHARGE, DISCRIMINATION, OR RE-
10 TALIACTION.—No hospital shall discharge, retaliate,
11 discriminate, or otherwise take adverse action in any
12 manner with respect to any aspect of a nurse’s em-
13 ployment (as defined in section 3407(4)), including
14 discharge, promotion, compensation, or terms, condi-
15 tions, or privileges of employment, based on the
16 nurse’s refusal of a work assignment under sub-
17 section (a).

18 “(2) NO FILING OF COMPLAINT.—No hospital
19 shall file a complaint or a report against a nurse
20 with a State professional disciplinary agency because
21 of the nurse’s refusal of a work assignment under
22 subsection (a).

23 “(c) CAUSE OF ACTION.—Any nurse who has been
24 discharged, discriminated against, or retaliated against in
25 violation of subsection (b)(1) or against whom a complaint

1 or report has been filed in violation of subsection (b)(2)
2 may (without regard to whether a complaint has been filed
3 under subsection (d) of this section or subsection (b) of
4 section 3406) bring a cause of action in a United States
5 district court. A nurse who prevails on the cause of action
6 shall be entitled to one or more of the following:

7 “(1) Reinstatement.

8 “(2) Reimbursement of lost wages, compensa-
9 tion, and benefits.

10 “(3) Attorneys’ fees.

11 “(4) Court costs.

12 “(5) Other damages.

13 “(d) COMPLAINT TO SECRETARY.—A nurse, patient,
14 or other individual may file a complaint with the Secretary
15 against a hospital that violates the provisions of this title.
16 For any complaint filed, the Secretary shall—

17 “(1) receive and investigate the complaint;

18 “(2) determine whether a violation of this title
19 as alleged in the complaint has occurred; and

20 “(3) if such a violation has occurred, issue an
21 order that the complaining nurse or individual shall
22 not suffer any discharge, retaliation, discrimination,
23 or other adverse action prohibited by subsection (b)
24 or subsection (f).

25 “(e) TOLL-FREE TELEPHONE NUMBER.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 for the establishment of a toll-free telephone hotline
3 to provide information regarding the requirements
4 under sections 3401 through 3403 and to receive re-
5 ports of violations of such section.

6 “(2) NOTICE TO PATIENTS.—A hospital shall
7 provide each patient admitted to the hospital for in-
8 patient care with the hotline described in paragraph
9 (1), and shall give notice to each patient that such
10 hotline may be used to report inadequate staffing or
11 care.

12 “(f) PROTECTION FOR REPORTING.—

13 “(1) PROHIBITION ON RETALIATION OR DIS-
14 CRIMINATION.—A hospital shall not discriminate or
15 retaliate in any manner against any patient, em-
16 ployee, or contract employee of the hospital, or any
17 other individual, on the basis that such individual, in
18 good faith, individually or in conjunction with an-
19 other person or persons, has presented a grievance
20 or complaint, or has initiated or cooperated in any
21 investigation or proceeding of any governmental en-
22 tity, regulatory agency, or private accreditation
23 body, made a civil claim or demand, or filed an ac-
24 tion relating to the care, services, or conditions of
25 the hospital or of any affiliated or related facilities.

1 “(2) GOOD FATH DEFINED.—For purposes of
2 this subsection, an individual shall be deemed to be
3 acting in good faith if the individual reasonably be-
4 lieves—

5 “(A) the information reported or disclosed
6 is true; and

7 “(B) a violation of this title has occurred
8 or may occur.

9 “(g) PROHIBITION ON INTERFERENCE WITH
10 RIGHTS.—

11 “(1) EXERCISE OF RIGHTS.—It shall be unlaw-
12 ful for any hospital to—

13 “(A) interfere with, restrain, or deny the
14 exercise, or attempt to exercise, by any person
15 of any right provided or protected under this
16 title; or

17 “(B) coerce or intimidate any person re-
18 garding the exercise or attempt to exercise such
19 right.

20 “(2) OPPOSITION TO UNLAWFUL POLICIES OR
21 PRACTICES.—It shall be unlawful for any hospital to
22 discriminate or retaliate against any person for op-
23 posing any hospital policy, practice, or actions which
24 are alleged to violate, breach, or fail to comply with
25 any provision of this title.

1 “(3) PROHIBITION ON INTERFERENCE WITH
2 PROTECTED COMMUNICATIONS.—A hospital (or an
3 individual representing a hospital) shall not make,
4 adopt, or enforce any rule, regulation, policy, or
5 practice which in any manner directly or indirectly
6 prohibits, impedes, or discourages a direct care
7 nurse from, or intimidates, coerces, or induces a di-
8 rect care nurse regarding, engaging in free speech
9 activities or disclosing information as provided under
10 this title.

11 “(4) PROHIBITION ON INTERFERENCE WITH
12 COLLECTIVE ACTION.—A hospital (or an individual
13 representing a hospital) shall not in any way inter-
14 fere with the rights of nurses to organize, bargain
15 collectively, and engage in concerted activity under
16 section 7 of the National Labor Relations Act (29
17 U.S.C. 157).

18 “(h) NOTICE.—A hospital shall post in an appro-
19 priate location in each unit a conspicuous notice in a form
20 specified by the Secretary that—

21 “(1) explains the rights of nurses, patients, and
22 other individuals under this section;

23 “(2) includes a statement that a nurse, patient,
24 or other individual may file a complaint with the

1 Secretary against a hospital that violates the provi-
2 sions of this title; and

3 “(3) provides instructions on how to file such a
4 complaint.

5 “(i) EFFECTIVE DATE.—

6 “(1) REFUSAL; RETALIATION; CAUSE OF AC-
7 TION.—

8 “(A) IN GENERAL.—Subsections (a)
9 through (c) shall apply to objections and refus-
10 als occurring on or after the effective date of
11 the provision of this title to which the objection
12 or refusal relates.

13 “(B) EXCEPTION.—Subsection (a)(2) shall
14 not apply to objections or refusals in any hos-
15 pital before the requirements of section 3401(a)
16 or 3403(a), as applicable, apply to that hos-
17 pital.

18 “(2) PROTECTIONS FOR REPORTING.—Sub-
19 section (f)(1) shall apply to actions occurring on or
20 after the effective date of the provision to which the
21 violation relates, except that such subsection shall
22 apply to initiation, cooperation, or participation in
23 an investigation or proceeding on or after the date
24 of enactment of this title.

1 “(3) NOTICE.—Subsection (h) shall take effect
2 18 months after the date of enactment of this title.

3 **“SEC. 3406. ENFORCEMENT.**

4 “(a) IN GENERAL.—The Secretary shall enforce the
5 requirements and prohibitions of this title in accordance
6 with this section.

7 “(b) PROCEDURES FOR RECEIVING AND INVES-
8 TIGATING COMPLAINTS.—The Secretary shall establish
9 procedures under which—

10 “(1) any person may file a complaint alleging
11 that a hospital has violated a requirement or a pro-
12 hibition of this title; and

13 “(2) such complaints shall be investigated by
14 the Secretary.

15 “(c) REMEDIES.—If the Secretary determines that a
16 hospital has violated a requirement of this title, the Sec-
17 retary—

18 “(1) shall require the facility to establish a cor-
19 rective action plan to prevent the recurrence of such
20 violation; and

21 “(2) may impose civil money penalties, as de-
22 scribed in subsection (d).

23 “(d) CIVIL PENALTIES.—

1 “(1) IN GENERAL.—In addition to any other
2 penalties prescribed by law, the Secretary may im-
3 pose civil penalties as follows:

4 “(A) HOSPITAL LIABILITY.—The Secretary
5 may impose on a hospital found to be in viola-
6 tion of this title, a civil money penalty of not
7 more than \$25,000 for each knowing violation
8 of a requirement of this title, except that the
9 Secretary shall impose a civil money penalty of
10 more than \$25,000 for each such violation in
11 the case of a participating hospital that the
12 Secretary determines has a pattern or practice
13 of such violations (with the amount of such ad-
14 ditional penalties being determined in accord-
15 ance with a schedule or methodology specified
16 in regulations).

17 “(B) INDIVIDUAL LIABILITY.—The Sec-
18 retary may impose on an individual who—

19 “(i) is employed by a hospital found
20 by the Secretary to have violated a require-
21 ment of this title; and

22 “(ii) willfully violates this title,
23 a civil money penalty of not more than \$20,000
24 for each such violation.

1 “(2) PROCEDURES.—The provisions of section
2 1128A of the Social Security Act (other than sub-
3 sections (a) and (b)) shall apply to a civil money
4 penalty under this paragraph in the same manner as
5 such provisions apply to a penalty or proceeding
6 under such section 1128A.

7 “(e) PUBLIC NOTICE OF VIOLATIONS.—

8 “(1) INTERNET WEBSITE.—The Secretary shall
9 publish on the Internet website of the Department
10 of Health and Human Services the names of partici-
11 pating hospitals on which civil money penalties have
12 been imposed under this subsection, the violation for
13 which such penalty was imposed, and such addi-
14 tional information as the Secretary determines ap-
15 propriate.

16 “(2) CHANGE OF OWNERSHIP.—With respect to
17 a participating hospital that had a change of owner-
18 ship, as determined by the Secretary, penalties im-
19 posed on the hospital while under previous owner-
20 ship shall no longer be published by the Secretary of
21 such Internet website after the 1-year period begin-
22 ning on the date of change of ownership.

23 “(f) OFFSET.—Funds collected by the Secretary
24 under this section shall be used to offset the costs of en-
25 forcing this title.

1 **“SEC. 3407. DEFINITIONS.**

2 “For purposes of this title:

3 “(1) ACUITY SYSTEM.—The term ‘acuity sys-
4 tem’ means an established measurement tool that—

5 “(A) predicts nursing care requirements
6 for individual patients based on severity of pa-
7 tient illness, need for specialized equipment and
8 technology, intensity of nursing interventions
9 required, and the complexity of clinical nursing
10 judgment needed to design, implement, and
11 evaluate the patient’s nursing care plan;

12 “(B) details the amount of nursing care
13 needed, both in number of nurses and in skill
14 mix of nursing personnel required, on a daily
15 basis, for each patient in a nursing department
16 or unit;

17 “(C) takes into consideration the patient
18 care services provided not only by registered
19 nurses but also by direct care licensed practical
20 nurses and other health care personnel; and

21 “(D) is stated in terms that can be readily
22 used and understood by nurses.

23 “(2) DIRECT CARE LICENSED PRACTICAL
24 NURSE.—The term ‘direct care licensed practical
25 nurse’ means an individual who has been granted a
26 license by at least 1 State to practice as a licensed

1 practical nurse or a licensed vocational nurse and
2 who provides bedside care for 1 or more patients.

3 “(3) DIRECT CARE REGISTERED NURSE.—The
4 term ‘direct care registered nurse’ means an indi-
5 vidual who has been granted a license by at least 1
6 State to practice as a registered nurse and who pro-
7 vides bedside care for 1 or more patients.

8 “(4) EMPLOYMENT.—The term ‘employment’
9 includes the provision of services under a contract or
10 other arrangement.

11 “(5) HOSPITAL.—The term ‘hospital’ has the
12 meaning given that term in section 1861(e) of the
13 Social Security Act, and includes a hospital that is
14 operated by the Department of Veterans Affairs, the
15 Department of Defense, the Indian Health Services
16 Program, or any other department or agency of the
17 United States.

18 “(6) NURSE.—The term ‘nurse’ means any di-
19 rect care registered nurse or direct care licensed
20 practical nurse (as the case may be), regardless of
21 whether or not the nurse is an employee.

22 “(7) STAFFING PLAN.—The term ‘staffing plan’
23 means a staffing plan required under section 3401.

24 “(8) STATE OF EMERGENCY.—The term ‘state
25 of emergency’—

1 “(A) means a state of emergency that is
2 an unpredictable or unavoidable occurrence at
3 an unscheduled or unpredictable interval, relat-
4 ing to health care delivery and requiring imme-
5 diate medical interventions and care; and

6 “(B) does not include a state emergency
7 that results from a labor dispute in the health
8 care industry or consistent understaffing.

9 **“SEC. 3408. RULE OF CONSTRUCTION.**

10 “Nothing in this title shall be construed to authorize
11 disclosure of private and confidential patient information,
12 except in the case where such disclosure is otherwise re-
13 quired by law, compelled by proper legal process, con-
14 sented to by the patient, provided in confidence to regu-
15 latory or accreditation agencies or other government enti-
16 ties for investigatory purposes, or provided pursuant to
17 formal or informal complaints of unlawful or improper
18 practices for purposes of achieving corrective and remedial
19 action.”.

20 (b) **RECOMMENDATIONS TO CONGRESS.**—Not later
21 than 1 year after the date of enactment of this Act, the
22 Secretary of Health and Human Services shall submit to
23 Congress a report containing recommendations for ensur-
24 ing that sufficient numbers of nurses are available to meet

1 the requirements imposed by title XXXIV of the Public
2 Health Service Act, as added by subsection (a).

3 (c) REPORT BY HRSA.—

4 (1) IN GENERAL.—Not later than 2 years after
5 the date of enactment of this Act, the Administrator
6 of the Health Resources and Services Administra-
7 tion, in consultation with the National Health Care
8 Workforce Commission, shall submit to Congress a
9 report regarding the relationship between nurse
10 staffing levels and nurse retention in hospitals.

11 (2) UPDATED REPORT.—Not later than 5 years
12 after the date of enactment of this Act, the Adminis-
13 trator of the Health Resources and Services Admin-
14 istration, in consultation with the National Health
15 Care Workforce Commission, shall submit to Con-
16 gress an update of the report submitted under para-
17 graph (1).

18 **SEC. 3. ENFORCEMENT OF REQUIREMENTS THROUGH FED-**

19 **ERAL PROGRAMS.**

20 (a) MEDICARE PROGRAM.—Section 1866(a)(1) of the
21 Social Security Act (42 U.S.C. 1395cc(a)(1)) is amend-
22 ed—

23 (1) by striking “and” at the end of subpara-
24 graph (V);

1 (2) by striking the period at the end of the sub-
2 paragraph (W) added by section 3005(1)(C) of Pub-
3 lic Law 111–148 and inserting a semicolon;

4 (3) by striking the period at the end of the sub-
5 paragraph (W) added by section 6406(b)(3) of Pub-
6 lic Law 111–148 and inserting “; and”; and

7 (4) by inserting after the subparagraph (W)
8 added by such section 6406(b)(3) the following:

9 “(W) in the case of a hospital, to comply
10 with the provisions of title XXXIV of the Public
11 Health Service Act.”.

12 (b) MEDICAID PROGRAM.—Section 1902(a) of the
13 Social Security Act (42 U.S.C. 1396(a)) is amended—

14 (1) by striking “and” at the end of paragraph
15 (82)(C);

16 (2) by striking the period at the end of para-
17 graph (83) and inserting “; and”; and

18 (3) by inserting after paragraph (83) the fol-
19 lowing new paragraph:

20 “(84) provide that any hospital that receives a
21 payment under such plan comply with the provisions
22 of title XXXIV of the Public Health Service Act (re-
23 lating to minimum direct care registered nurse staff-
24 ing requirements).”.

1 (c) HEALTH BENEFITS PROGRAM OF THE DEPART-
2 MENT OF VETERANS AFFAIRS.—Section 8110(a) of title
3 38, United States Code, is amended by adding at the end
4 the following new paragraphs:

5 “(7) In the case of a Department medical facility that
6 is a hospital, the hospital shall comply with the provisions
7 of title XXXIV of the Public Health Service Act.

8 “(8) Nothing either in chapter 74 of this title or in
9 section 7106 of title 5 shall preclude enforcement of the
10 provisions of title XXXIV of the Public Health Service Act
11 with respect to a Department hospital through grievance
12 procedures negotiated in accordance with chapter 71 of
13 title 5.”.

14 (d) HEALTH BENEFITS PROGRAM OF THE DEPART-
15 MENT OF DEFENSE.—

16 (1) IN GENERAL.—Chapter 55 of title 10,
17 United States Code, is amended by adding at the
18 end the following new section:

19 **“§ 1110c. Staffing requirements**

20 “In the case of a facility of the uniformed services
21 that is a hospital, the hospital shall comply with the provi-
22 sions of title XXXIV of the Public Health Service Act.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions at the beginning of such chapter is amended

1 by inserting after the item relating to section 1110b
2 the following new item:

“1110c. Staffing requirements”.

3 (e) INDIAN HEALTH SERVICES PROGRAM.—Title
4 VIII of the Indian Health Care Improvement Act (25
5 U.S.C. 1671 et seq.) is amended by adding at the end
6 the following new section:

7 **“SEC. 833. STAFFING REQUIREMENTS.**

8 “All hospitals of the Service shall comply with the
9 provisions of title XXXIV of the Public Health Service Act
10 (relating to minimum direct care registered nurse staffing
11 requirements).”.

12 (f) FEDERAL LABOR-MANAGEMENT RELATIONS.—

13 (1) IN GENERAL.—Section 7106 of title 5,
14 United States Code, is amended by adding at the
15 end the following:

16 “(c) Nothing in this section shall preclude enforce-
17 ment of the provisions of title XXXIV of the Public Health
18 Service Act through grievance procedures negotiated in ac-
19 cordance with section 7121.”.

20 (2) CONFORMING AMENDMENT.—Section
21 7106(a) of title 5, United States Code, is amended
22 by striking “Subject to subsection (b) of this title,”
23 and inserting “Subject to subsections (b) and (c),”.

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