General Assembly

Raised Bill No. 1067

January Session, 2023

LCO No. **4107**

Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING ADEQUATE AND SAFE HEALTH CARE STAFFING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 19a-89e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) For purposes of this section:

(1) "Department" means the Department of Public Health; **[**and**]**

(2) "Hospital" means an establishment for the lodging, care and treatment of persons suffering from disease or other abnormal physical or mental conditions and includes inpatient psychiatric services in general hospitals;

(3) "Assistive personnel" means personnel who are not licensed by the Department of Public Health, but who work under the direct supervision of a registered nurse to implement specifically delegated patient care activities; and

(4) "Professional judgment" means the application of knowledge,

expertise and experience, in accordance with the provisions of the general statutes and regulations of Connecticut state agencies concerning the practice of nursing, in conducting a comprehensive nursing assessment of each patient and making independent decisions about patient care, including, but not limited to, the need for additional staff providing patient care.

(b) Each hospital licensed by the department pursuant to chapter 368v shall report, annually, to the department on a prospective nurse staffing plan with a written certification that the nurse staffing plan is sufficient to provide adequate and appropriate delivery of health care services to patients in the ensuing period of licensure. Such plan shall promote a collaborative practice in the hospital that enhances patient care and the level of services provided by nurses and other members of the hospital's patient care team. Nurse staffing plans developed and implemented on or after January 1, 2028, shall require the following ratios of (1) patients to registered nurses providing direct patient care per corresponding patient care unit: (A) Four to one for the emergency department; (B) two to one for patients requiring intensive care in the emergency department; (C) one to one for trauma patients in the emergency department; (D) two to one for the intensive care unit; (E) three to one for the progressive care unit; (F) four to one for the telemetry unit; (G) five to one for the medical-surgical unit; (H) four to one for the pediatric unit; (I) one to one for the operating room; (J) two to one in the post-anesthesia recovery unit; (K) five to one for the oncology unit; (L) five to one for the orthopedics unit; (M) six to one for the psychiatry unit; (N) two to one in the labor and delivery unit; (O) four to one in the postpartum unit; (P) four to one in the nursery unit; and (Q) two to one in the neonatal intensive care unit; and (2) patients to assistive personnel providing patient care per corresponding patient care unit: (A) Eight to one in the emergency department; (B) eight to one in the intensive care unit; (C) six to one in the progressive care unit; (D) eight to one in the telemetry unit; (E) eight to one in the medical-surgical unit; (F) eight to one in the pediatric unit; (G) eight to one in the oncology unit; (H) six to one in the orthopedics unit; (I) eight to one in

the psychiatric unit; and (J) twelve to one in the obstetrics unit.

(c) Each hospital shall establish a hospital staffing committee to assist in the preparation of the nurse staffing plan required pursuant to subsection (b) of this section. Registered nurses employed by the hospital whose primary responsibility is to provide direct patient care shall account for not less than fifty per cent of the membership of each hospital's staffing committee. In order to comply with the requirement that a hospital establish a hospital staffing committee, a hospital may utilize an existing committee or committees to assist in the preparation of the nurse staffing plan, provided not less than fifty per cent of the members of such existing committee or committees are registered nurses employed by the hospital whose primary responsibility is to provide direct patient care. When registered nurses employed by the hospital are members of a collective bargaining unit, a representative of the collective bargaining unit shall select the registered nurses who shall be members of the hospital staffing committee, provided such selection shall not be construed to permit conduct prohibited under the National Labor Relations Act, 29 USC 151 et seq., as amended from time to time, or 5 USC Chapter 71, as amended from time to time. Each hospital, in collaboration with its staffing committee, shall develop and implement to the best of its ability the prospective nurse staffing plan. Such plan shall: (1) Include the minimum professional skill mix for each patient care unit in the hospital, including, but not limited to, inpatient services, critical care and the emergency department; (2) identify the hospital's employment practices concerning the use of temporary and traveling nurses; (3) set forth the level of administrative staffing in each patient care unit of the hospital that ensures direct care staff are not utilized for administrative functions; (4) set forth the hospital's process for internal review of the nurse staffing plan; and (5) include the hospital's mechanism of obtaining input from direct care staff, including nurses and other members of the hospital's patient care team, in the development of the nurse staffing plan. In addition to the information described in subdivisions (1) to (5), inclusive, of this subsection, nurse staffing plans developed and implemented after January 1, 2016, shall

include: (A) The number of registered nurses providing direct patient care and the ratio of patients to such registered nurses by patient care unit; (B) the number of licensed practical nurses providing direct patient care and the ratio of patients to such licensed practical nurses, by patient care unit; (C) the number of assistive personnel providing direct patient care and the ratio of patients to such assistive personnel, by patient care unit; (D) the method used by the hospital to determine and adjust direct patient care staffing levels; and (E) a description of supporting personnel assisting on each patient care unit. In addition to the information described in subdivisions (1) to (5), inclusive, of this subsection and subparagraphs (A) to (E), inclusive, of this subdivision, nurse staffing plans developed and implemented after January 1, 2017, shall include: (i) A description of any differences between the staffing levels described in the staffing plan and actual staffing levels for each patient care unit; and (ii) any actions the hospital intends to take to address such differences or adjust staffing levels in future staffing plans.

(d) Each hospital shall post the nurse staffing plan developed pursuant to subsections (b) and (c) of this section on each patient care unit in a conspicuous location visible and accessible to staff, patients and members of the public. Each hospital shall maintain accurate records, for at least the preceding three years, of the ratios of patients to registered nurses providing direct patient care and patients to assistive personnel providing patient care in each direct care unit for each shift. Such records shall include the number of (1) patients in each unit on each shift; (2) registered nurses providing direct patient care assigned to each patient in each unit on each shift; and (3) assistive personnel providing patient care assigned to each patient in each unit on each shift. Each hospital shall make such records available, upon request, to the Department of Public Health, the staff of the hospital, any collective bargaining unit representing such staff, the patients of the hospital and members of the general public.

(e) A registered nurse may object to or refuse to participate in any activity, policy, practice or task assigned by a hospital, provided the registered nurse acts in good faith and, in the registered nurse's

professional judgment, the registered nurse (1) reasonably believes participation in the activity, policy, practice or task would violate a provision of this section, or (2) is not prepared by education, training or experience to participate in the activity, policy, practice or task without compromising the safety of a patient or jeopardizing the registered nurse's license. No hospital shall discharge, retaliate against, discriminate against or take any other adverse action against a registered nurse or any aspect of the registered nurse's employment, including, but not limited to, discharge, promotion, reduction in compensation or revisions to terms, conditions or privileges of employment, as a result of such objection or refusal by the registered nurse. No hospital shall file a complaint or report against a registered nurse with the Department of Public Health as a result of such objection or refusal. Any registered nurse or collective bargaining representative or legal representative of a registered nurse who has been discharged, discriminated against or retaliated against in violation of the provisions of this subsection, or against whom a complaint or report has been filed in violation of such provisions, may bring a cause of action against the hospital. A registered nurse who prevails in such cause of action shall be entitled to one or more of the following: (A) Reinstatement of employment, (B) reimbursement of lost wages, compensation and benefits, (C) attorneys' fees, (D) court costs, and (E) any other relevant damages.

[(d)**]** (f) On or before January 1, 2016, and annually thereafter, the Commissioner of Public Health shall report, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to public health concerning hospital compliance with reporting requirements under this section and recommendations concerning any additional reporting requirements.

Sec. 2. Section 19a-490*l* of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) As used in this section:

(1) "Nurse" means a registered nurse or a practical nurse licensed pursuant to chapter 378, or a nurse's aide registered pursuant to chapter 378a; **[**and**]**

(2) "Hospital" has the same meaning as set forth in section 19a-490; and

(3) "Overtime" means working (A) in excess of a predetermined scheduled work shift, regardless of the length of such scheduled work shift, provided such scheduled work shift is determined and communicated not less than forty-eight hours prior to the commencement of such scheduled work shift, (B) more than twelve hours in a twenty-four-hour period, (C) during the ten-hour period immediately following the end of the previous work shift of eight hours or more, or (D) more than forty-eight hours in any hospital-defined work week.

(b) **[**No**]** Except as provided in this section, no hospital **[**may**]** shall require a nurse to work **[**in excess of a predetermined scheduled work shift, provided such scheduled work shift is determined and promulgated not less than forty-eight hours prior to the commencement of such scheduled work shift**]** overtime. No hospital shall discriminate against, discharge, discipline, threaten to discharge or discipline or otherwise retaliate against a nurse for refusing to work overtime.

(c) Any nurse may volunteer or agree to work **[**hours in addition to such scheduled work shift but the refusal by a nurse to accept such additional hours shall not be grounds for discrimination, dismissal, discharge or any other penalty or employment decision adverse to the nurse**]** overtime.

[(c) The**]** (d) When the safety of a patient requires and when there is no reasonable alternative, the provisions of subsection (b) of this section shall not apply: (1) To any nurse participating in **[**a**]** an ongoing surgical procedure until such procedure is completed; (2) to any nurse working in a critical care unit until such nurse is relieved by another nurse who is commencing a scheduled work shift; (3) in the case of a public health

emergency; or (4) in the case of an institutional emergency, including, but not limited to, adverse weather conditions, catastrophe or widespread illness, that in the opinion of the hospital administrator will significantly reduce the number of nurses available for a scheduled work shift, provided the hospital administrator has made a good faith effort to mitigate the impact of such institutional emergency on the availability of nurses. **[**; or (5) to any nurse who is covered by a collective bargaining agreement that contains provisions addressing the issue of mandatory overtime.**]**

(e) Before requiring a nurse to work overtime in accordance with the provisions of subsection (d) of this section, a hospital shall make a good faith effort to have such overtime hours covered on a voluntary basis. Mandatory overtime shall not be required as a regular practice for providing appropriate staffing for the necessary level of patient care or in any situation that is the result of routine staffing needs caused by typical staffing patterns, expected levels of absenteeism or time off typically approved by the hospital for vacation, holidays, sick leave and personal leave.

(f) (1) The provisions of this section shall not be construed to alter or impair the terms of any bona fide collective bargaining agreement that places additional restrictions or limitations on the use of mandatory overtime.

(2) The provisions of this section shall not prohibit mandatory overtime with respect to any nurse who is covered by a bona fide collective bargaining agreement in effect prior to July 1, 2022, containing provisions addressing the issue of mandatory overtime, until the expiration date of the collective bargaining agreement.

(3) The provisions of this section shall not prohibit mandatory overtime with respect to any nurse who is covered by a bona fide collective bargaining agreement under chapter 68 to the extent such collective bargaining agreement permits mandatory overtime, provided mandatory overtime for reasons set forth in subsection (d) of this section

shall be a mandatory subject of bargaining, and mandatory overtime for reasons other than those set forth in subsection (d) of this section shall be a permissible subject of bargaining.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2023*	19a-89e
Sec. 2	*October 1, 2023*	19a-490*l*

Statement of Purpose:

To ensure adequate and safe health care staffing.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]