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[Connecticut Expands Nurse Protections Relating to Hospital Nurse Staffing Plans, Scope of Practice, and Overtime](#)

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On June 27, 2023, Connecticut Governor Ned Lamont signed into law [Public Act 23-204](#), “An Act Concerning the State Budget for the Biennium Ending June 30, 2025, and Making Appropriations Therefor, and Provisions Related to Revenue and Other Items Implementing the State Budget” (the Act). Among other things, the Act includes provisions addressing hospitals’ obligations with regards to staffing, nurse overtime, and nurse scope of practice.

Hospital Nurse Staffing Plans

Licensed Connecticut hospitals are required under existing law Conn. Gen. Stat. § 19a-89e) to report prospective nurse staffing plans 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. The Act expands hospitals’ existing reporting requirements of nurse staffing plans under this statute.

First, the Act increases the frequency of hospitals’ reporting of nurse staffing plans to the Department of Public Health (DPH) from annually to biannually, with such reports now due January 1 and July 1 of each year. The Act also stipulates that hospitals must post their nurse staffing plans in each patient care unit in a conspicuous location visible to staff, patients, and the public.

Starting January 1, 2024, hospitals will be required to include the following elements in their nurse staffing plans:

- Information about any refusals by hospital staff to comply with the nurse staffing plan;
- Evidence to support nurse staffing plan implementation success;
- Retention, turnover, and recruitment metrics for registered nursing staff engaged in direct patient care;
- Any instances of hospital noncompliance with the nurse staffing plan; and
- Certification that the requirements set out in the applicable law are met.

The Act sets forth documentation requirements for compliance with nurse staffing plans. Hospitals will be required to maintain records of nurse-to-patient and assistive personnel-to-patient ratios for each shift for at least the preceding three years. If requested, these records must be made available to DPH, hospital staff, any collective bargaining unit that represents the staff, patients, and the public.

Additionally, by October 1, 2024, and then biannually thereafter, hospitals are required to submit a compliance report to DPH disclosing whether the hospital has complied with at least 80 percent of nurse staffing assignments in its nurse staffing plan during the previous six months.

Hospital Staffing Committees

Existing law requires a hospital staffing committee to “assist in the preparation of the nurse staffing plan.” The Act now makes explicit that “[e]ach hospital staffing committee shall develop the nurse staffing plan for the hospital,” and must take into account recent patient outcomes research, as well as procedures regarding the reporting of concerns, in doing so.

The Act further revises certain requirements around the composition of hospital staffing committees. The Act clarifies that registered nurses who provide direct patient care must make up more than half of the membership (and constitute an odd number) of such committees, while also requiring “broad-based representation across hospital services.” Additionally, when the nursing staff in a hospital are members of a collective bargaining unit, the Act authorizes that unit to designate the direct patient care nurses to serve as at least half of the members of the committee (unless otherwise prohibited by federal or state laws), and also to nominate additional direct care registered nurse candidates from which the hospital is to select one additional member to serve on the committee. Direct care registered nurses that are not members of a collective bargaining unit are to be selected by a process determined by the hospital’s direct care registered nurses. The Act requires that hospitals pay members of the committee their regular rate of pay, and consider, to the extent possible, time spent on the committee to be part of the employee’s regularly scheduled work week.

The Act newly requires state hospitals to notify each nurse upon hiring, and annually thereafter, of, among other things, the purpose of the hospital staffing committee, how to become a member, the review process of nurse staffing plans, and how the hospital obtains input from direct care staff on its nurse staffing plan.

If a hospital falls out of compliance with certain requirements in the Act, DPH is authorized to require the hospital to submit a corrective action plan. Under the Act, DPH may also impose on the hospital a civil penalty of \$3,500 for the first violation, or \$5,000 for any subsequent violation. Hospitals may contest such penalties by requesting a hearing under the Administrative Procedure Act.

Nurse Scope of Practice

Under the Act, hospitals are expressly prohibited from requiring registered nurses to “undertake any patient care task that is beyond the scope of the nurse’s license.” Relatedly, the Act newly permits registered nurses to object or refuse to participate in any activity, policy, practice, or task, if the nurse “is not competently able based on education, training or experience” to perform the activity, policy, practice, or task without compromising patient safety. Registered nurses who so object must immediately contact a supervisor for assistance or to allow the hospital to find a suitable replacement and must also submit a form to the hospital within 12 hours detailing the reasons for the objection and an explanation of how patient safety would have been compromised.

With respect to these objection forms, hospitals must: (a) develop the form and have it approved by DPH; (b) review completed forms through their quality assessment and performance improvement program, risk management or patient safety committees; (c) adjust nurse staffing assignments if necessary to improve patient safety; and (d) provide confidential access to completed forms to DPH upon request.

In addition, the Act permits a registered nurse to file a complaint (on a hospital-developed and DPH-approved form) if the nurse “reasonably believes” that participation in a particular activity, policy, practice, or task “would violate a provision of a nurse staffing plan or policy” at the hospital. The hospital and its nurse staffing committee must analyze all such complaints and provide DPH with an analysis of any actions taken in response. The Act prohibits hospitals from retaliating or discriminating against nurses who exercise their rights as expanded under the Act.

However, the Act emphasizes that patient abandonment is not permitted under the new provisions, and outlines specific circumstances under which nurses are *not* permitted to refuse to perform patient care duties:

- During an ongoing surgical procedure;
- In a critical care, labor and delivery, or emergency unit, until such nurse is relieved by another nurse;
- During a public health or institutional emergency; or
- If inaction or abandonment would jeopardize patient safety.

Nurse Overtime

Existing law prohibits hospitals from requiring registered nurses to work overtime except in limited circumstances (e.g., when working during surgical procedures, in critical care units until relieved by another nurse, during public health or institutional emergencies, or as provided under a collective bargaining agreement). The Act places further limits on those circumstances by stipulating that (subject to any mandatory overtime provisions in

applicable collective bargaining agreements) these existing exceptions only apply when necessary for patient safety and there is no reasonable alternative. Under the Act, hospitals must make a good faith effort to cover overtime hours on a voluntary basis before invoking mandatory overtime as permitted under current law. The Act also explicitly prohibits retaliation against nurses who refuse to work overtime.

Notably, in connection with the foregoing changes, the Act newly defines “overtime” as follows: “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, or (C) more than forty-eight hours in any hospital-defined work week.”

These provisions of the Act are effective October 1, 2023, unless otherwise noted.

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If you have any questions, please contact any member of Robinson+Cole’s [Health Law Group](#).

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