AN ACT

Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An act relating to health care; prescribing the powers and duties of the Department of Health; establishing and providing the powers and duties of the State Health Coordinating Council, health systems agencies and Health Care Policy Board in the Department of Health, and State Health Facility Hearing Board in the Department of Justice; providing for certification of need of health care providers and prescribing penalties," providing for professional nurse safe staffing standards.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, is amended by adding a chapter to read:

CHAPTER 8-A

PROFESSIONAL NURSE SAFE STAFFING STANDARDS

Section 801-A. Scope.

This chapter relates to professional nurse staffing standards.
in a general or special hospital, or ambulatory surgical
facility that will ensure patient safety and the delivery of
quality health care to patients.

Section 802-A. Definitions.

For the purposes of this chapter, following words and phrases
when used in this chapter shall have the meanings given to them
in this section unless the context clearly indicates otherwise:

"Acuity system." A measurement system that is based on
scientific data and compares the registered nurse staffing level
in each nursing department or unit against actual nursing care
requirements of each patient, taking into consideration the
health care workforce on duty and available to work appropriate
to their level of training or education, in order to predict
registered nursing direct-care requirements for individual
patients based on the severity of patient illness. The system
shall be both practical and effective in terms of hospital
implementation.

"Direct-care registered nurse." A registered nurse who has
accepted direct responsibility and accountability to carry out
medical regimens, nursing or other bedside care for patients.

"Direct patient care." Care provided by a nurse with direct
responsibility to carry out medical regimens or nursing care for
one or more patients.

"Health care facility." A general or special hospital, or
ambulatory surgical facility.

"Health care worker." An employee, independent contractor,
licensee or other individual authorized to provide services in a
medical facility.

"Patient safety officer." An individual designated by a
medical facility under section 309 of the act of March 20, 2002.
(P.L.154, No.13), known as the Medical Care Availability and
Reduction of Error (Mcare) Act.

"Professional nurse." Any person who holds a license to
practice professional nursing under the act of December 20, 1985
(P.L.409, No.109), known as the Professional Nursing Law.

"Safe staffing plan" or "plan." The professional nurse safe
staffing plan established under section 806-A.

"Safe staffing committee" or "committee." The professional
nurse safe staffing committee established under section 804-A.

Section 803-A. Development of professional nurse safe staffing
standards.

A health care facility shall develop, validate and implement
a professional nurse safe staffing plan for the purpose of
ensuring the health and safety of patients. The plan shall be
developed internally by a Professional Nurse Safe Staffing
Committee established under section 804-A which shall include as
members professional nurses providing direct patient care in the facility.

Section 804-A. Professional Nurse Safe Staffing Committee.

(a) Establishment.--A health care facility shall establish a
Professional Nurse Safe Staffing Committee no later than 60 days
following the effective date of this chapter. The committee
shall meet at least three times per year.

(b) Membership.--Members of the committee shall include the
chief nursing officer, a member of the medical staff and the
patient safety officer if the facility has designated one. At
least 50% of the individuals selected to serve on the committee
shall consist of professional nurses who provide direct patient
care in the facility. Selection of professional nurses to the
committee shall be made in a manner to ensure adequate committee
representation of all the types of nursing care provided in the
facility.

(c) Existing committees.--Any committee or other similar
group established by a health care facility to engage in issues
related to nurse staffing standards prior to the effective date
of this chapter shall be required to conform to the provisions
of this chapter within 60 days of its effective date.

Section 805-A. Duties and responsibilities of committee.
The committee shall have the following duties and
responsibilities:
(1) Develop and adopt a plan prescribed in section 806-A
no later than 120 days following the enactment of this
chapter.
(2) Evaluate the plan on an ongoing basis by collecting
nursing-sensitive indicators including:
   (i) Patient falls.
   (ii) Pressure ulcers.
   (iii) Staff mix.
   (iv) Hours per patient day.
   (v) Nursing staff satisfaction.
   (vi) Patient satisfaction with:
      (A) Nursing care.
      (B) Overall care.
      (C) Pain management.
      (D) Patient education.
   (vii) Turnover and vacancy rates.
   (viii) Overtime use.
   (ix) Use of supplemental staffing.
   (x) Musculoskeletal injuries.
   (xi) Flexibility of human resource policies and
benefit packages.

(xii) Evidence of compliance with Federal, State and local regulations.

(xiii) Levels of nurse staff satisfaction.

(3) Revise the plan as it affects each inpatient unit based on the most recent evaluation of the plan, if necessary.

(4) Develop or adopt a patient acuity system containing, at a minimum, the standards set forth in section 807-A.

(5) Receive reports from the patient safety officer or other designated person under section 809-A.

(6) Ensure the investigation of all reports of any noncompliance with the plan, and take such action as is immediately necessary to ensure compliance.

(7) Annually report to the administrative officer and governing body of the health care facility regarding the effectiveness of the plan and any revisions made to the plan.

(8) Establish a mechanism for obtaining input from professional nurses in all inpatient care units who provide direct patient care for the purpose of developing, reviewing and revising the plan.

Section 806-A. Professional nurse safe staffing plan.

(a) Establishment.--A plan shall be established for each inpatient unit. The plan shall be, at a minimum, consistent with current staffing standards established by health accreditation organizations or national professional nursing organizations.

(b) Guidelines.--The plan shall be based on nursing and patient factors that yield appropriate staffing levels to ensure that the health care facility has a staff of competent professional nurses with specialized skills needed to meet
patient needs. The factors to be considered shall include but not be limited to:

(1) The characteristics of the nursing staff including, at a minimum, staff consistency, skill mix, preparation and clinical experience and the competency of clinical and nonclinical support staff the nurse must collaborate with or supervise.

(2) Patient acuity as determined by the health care facility's patient acuity system under section 807-A.

(3) Patient volume.

(4) Unit activity, including the amount of time needed for patient education, ongoing physical assessments, new admissions, discharges and transfers.

(5) The physical environment in which care is provided including the physical architecture of each unit, patient location and available technology of the health care facility.

(c) Reporting system.--The plan shall also contain information informing health care workers about the confidential reporting system established by the department under section 809-A for the reporting of any occurrence of noncompliance with the staffing requirements of the plan.

Section 807-A. Patient acuity system.

Every health care facility shall be required to adopt and utilize a patient acuity system that shall include the following standards:

(1) The availability of specialized equipment and technology.

(2) The number of patients requiring care.

(3) The level of intensity of nursing interventions.
required and the complexity of clinical nursing judgment needed to design, implement and evaluate the nursing care plan for each patient that is consistent with professional standards of care.

(4) The amount of nursing care needed, both in number of direct-care professional nurses and skill mix of nursing personnel required on a daily basis for each unit, the proximity of patients, the proximity and availability of other resources, facility design and personnel that have an effect upon the delivery of quality patient care.

(5) Patient care services provided by professional nurses and licensed practical nurses and other health care personnel.

Section 808-A. Duties and responsibilities of health care facility.

For purposes of this chapter, a health care facility shall have the following duties and responsibilities:

(1) Within 30 days from the date on which the committee adopts its initial plan following the effective date of this chapter, and no later than November 1 of each year thereafter, validate the adopted plan and patient acuity system along with a written certification by its Chief Nursing Officer that the plan is sufficient to provide adequate and appropriate delivery of health care services to patients for the ensuing year.

(2) Provide copies of its plan in accordance with each of the following:

(i) Each professional nurse working within a facility shall receive a copy of the plan for each unit to which the nurse is assigned.
(ii) Except as prescribed in subparagraph (i), a copy of the plan shall be provided to any person who requests it for a fee not to exceed the actual copying cost incurred by the facility.

(3) Post a notice in a conspicuous location within the facility informing the general public of the availability of the plan. The notice shall specify the appropriate person, office or department to be contacted to review or obtain a copy of the plan.

(4) Prohibit any retaliatory action against a health care worker for reporting a violation of this chapter in accordance with the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.

Section 809-A. Reporting and whistleblower protection.

(a) General rule.--A person who reasonably believes that the health care facility is not in compliance with the professional nurse staffing levels in the facility's plan shall immediately, or as soon thereafter as reasonably practicable, report the violation to the patient safety officer, who shall submit a report of the alleged violation to the committee. If the facility does not employ a patient safety officer, an appropriate person shall be designated by the committee to handle the reports.

(b) Procedure.--A person who has complied with subsection (a) may file an anonymous report regarding a violation of the plan with the department. Upon receipt of the report, the department shall give notice to the affected health care facility that a report has been filed, and require the facility to take whatever action is necessary to become compliant with the plan. The health care facility shall provide the department
with a statement describing the actions taken no later than 30
days after receiving notice under this subsection. At any time
the department deems necessary, the department may conduct its
own review and investigation of the report to ensure that the
facility is in compliance with the plan.

(c) Protection.—A health care facility shall not
discriminate or take retaliatory action against a health care
worker or any other person who discloses a policy or practice of
the facility that an employee or person believes violates this
chapter. Discriminating or retaliatory actions shall include
discharge of employment, suspension, demotion, harassment,
denial of employment or promotion, layoff of nursing staff or
other adverse action.

For purposes of this chapter, the Department of Health shall
have the power and its duties shall be:

(1) To adopt and promulgate any regulations necessary to
carry out the purposes and provisions of this chapter.

(2) To establish a confidential reporting system under
section 809-A(a) and inform each health care facility about
the reporting system.

(3) To review and investigate as necessary any reported
violations of this chapter.

Section 811-A. Penalties.
In addition to any penalty which may be imposed under this
act, a health care facility which fails to comply with any
 provision of this chapter may be subject to an administrative
penalty of $1,000 per day imposed by the department.

Section 2. This act shall take effect in 60 days.