State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4200

02/22/2024 Authored by Feist; Liebling; Greenman; Olson, L.; Berg and others
The bill was read for the first time and referred to the Committee on Health Finance and Policy
03/04/2024 Adoption of Report: Re-referred to the Committee on Labor and Industry Finance and Policy

A bill for an act

relating to health; requiring continued publication of the annual adverse health event report; prohibiting retaliation against patient care staff; providing for enforcement; amending Minnesota Statutes 2022, sections 144.05, subdivision 7; 144.7065, subdivision 8; 144.7067, subdivision 2; Minnesota Statutes 2023 Supplement, section 181.275, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 181.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2022, section 144.05, subdivision 7, is amended to read:

Subd. 7. **Expiration of report mandates.** (a) If the submission of a report by the commissioner of health to the legislature is mandated by statute and the enabling legislation does not include a date for the submission of a final report, the mandate to submit the report shall expire in accordance with this section.

(b) If the mandate requires the submission of an annual report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2023. If the mandate requires the submission of a biennial or less frequent report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2024.

(c) Any reporting mandate enacted on or after January 1, 2021, shall expire three years after the date of enactment if the mandate requires the submission of an annual report and shall expire five years after the date of enactment if the mandate requires the submission of a biennial or less frequent report, unless the enacting legislation provides for a different expiration date.

(d) The commissioner shall submit a list to the chairs and ranking minority members of the legislative committees with jurisdiction over health by February 15 of each year,

beginning February 15, 2022, of all reports set to expire during the following calendar year in accordance with this section. The mandate to submit a report to the legislature under this paragraph does not expire.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2024.

Sec. 2. Minnesota Statutes 2022, section 144.7065, subdivision 8, is amended to read:

Subd. 8. **Root cause analysis; corrective action plan.** (a) Following the occurrence of an adverse health care event, the facility must conduct a root cause analysis of the event. In conducting the root cause analysis, the facility must consider as one of the factors staffing levels and the impact of staffing levels on the event. Following the analysis, the facility must: (1) implement a corrective action plan to implement the findings of the analysis or (2) report to the commissioner any reasons for not taking corrective action. If the root cause analysis and the implementation of a corrective action plan are complete at the time an event must be reported, the findings of the analysis and the corrective action plan must be included in the report of the event. The findings of the root cause analysis and a copy of the corrective action plan must otherwise be filed with the commissioner within 60 days of the event.

(b) During the root cause analysis, the facility must notify any individual whose conduct may be under review no less than three days in advance of any meeting or interview with the individual about the adverse event. The notice shall inform the individual of the subject, purpose, date, and time of the meeting or interview.

Sec. 3. Minnesota Statutes 2022, section 144.7067, subdivision 2, is amended to read:

Subd. 2. **Duty to analyze reports; communicate findings.** (a) The commissioner shall:

(1) analyze adverse event reports, corrective action plans, and findings of the root cause analyses to determine patterns of systemic failure in the health care system and successful methods to correct these failures;

(2) communicate to individual facilities the commissioner's conclusions, if any, regarding an adverse event reported by the facility;

(3) communicate with relevant health care facilities any recommendations for corrective action resulting from the commissioner's analysis of submissions from facilities; and

(4) publish an annual report:

(i) describing, by institution, adverse events reported;

(ii) outlining, in aggregate, corrective action plans and the findings of root cause analyses; and

(iii) making recommendations for modifications of state health care operations.

(b) Notwithstanding section 144.05, subdivision 7, the mandate to publish an annual report under this subdivision does not expire.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2023.

Sec. 4. Minnesota Statutes 2023 Supplement, section 181.275, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section and section 181.2751, the following terms have the meanings given them~~:~~.

(b) "Assignment" means the designation of nursing tasks or activities to be performed by another nurse or unlicensed assistive person.

~~(1)~~ (c) "Emergency" means a period when replacement staff are not able to report for duty for the next shift or increased patient need, because of unusual, unpredictable, or unforeseen circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact continuity of patient care~~;~~.

(d) "Emergency medical condition" means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.

(e) "Health care facility" or " facility" means a hospital, or other entity licensed under sections 144.50 to 144.58, or other health care facility licensed by the commissioner of health.

~~(2)~~ (f) "Normal work period" means 12 or fewer consecutive hours consistent with a predetermined work shift~~;~~.

~~(3)~~ (g) "Nurse" has the meaning given in section 148.171, subdivision 9, and includes nurses employed by the state of Minnesota~~; and~~.

(h) "Patient" means a patient of a health care facility.

(i) "Patient care staff" means a person in a nonsupervisory and nonmanagerial position who provides direct care; provides supportive, rehabilitative, or therapeutic services to

patients; or who directly provides nursing care to patients more than 60 percent of the time, but is not:

(1) a licensed physician;

(2) a physician assistant licensed under chapter 147A; or

(3) an advanced practice registered nurse licensed under chapter 148, unless working as a registered nurse.

~~(4)~~ (j) "Taking action against" means discharging; disciplining; penalizing; interfering with; threatening; restraining; coercing; reporting to the Board of Nursing; or otherwise retaliating or discriminating against regarding compensation, terms, conditions, location, or privileges of employment.

Sec. 5. **[181.2751] ADDITIONAL PATIENT ASSIGNMENTS; RETALIATION AGAINST PATIENT CARE STAFF PROHIBITED.**

Subdivision 1. **Prohibited actions.** (a) Except as provided in subdivision 4 and subject to compliance with the process established in subdivision 2, as applicable, a health care facility and the facility's agent shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate because the patient care staff:

(1) makes a request to engage in the process established in subdivision 2; or

(2) fails to accept an assignment of one or more additional patients after following the process established in subdivision 2 because the patient care staff reasonably determines that accepting an additional patient assignment, may create an unnecessary danger to a patient's life, health, or safety or may otherwise constitute a ground for disciplinary action under section 148.261.

(b) This subdivision does not apply to a nursing facility, an intermediate care facility for persons with developmental disabilities, or a licensed boarding care home.

Subd. 2. **Process.** (a) A patient care staff may decline to accept an additional patient assignment if the following process is met:

(1) the patient care staff notifies the charge nurse, or their direct supervisor if a charge nurse is unavailable, stating in writing that the patient care staff reasonably determines that the additional patient assignment may create an unnecessary danger to a patient's life, health, or safety or may otherwise constitute a ground for disciplinary action under section 148.261. The notification must include:

(i) the name of the requesting patient care staff;

(ii) the date and time of the request; and

(iii) a brief explanation of why the patient care staff is requesting to decline the additional patient assignment under the process in this subdivision; and

(2) the charge nurse or direct supervisor must evaluate the relevant factors to assess and determine the adequacy of resources and invoke any chain of command policy to meet patient care needs. Any chain of command policy must be available on all units in a place that is accessible to workers.

(b) If the issue cannot be resolved through reallocation of resources or by other possible measures by the charge nurse or direct supervisor and the patient care staff reasonably determines that accepting an additional patient assignment may create an unnecessary danger to a patient's life, health, or safety, the patient care staff may decline to accept the additional patient assignment.

(c) If a patient care staff is unable to complete a written request due to immediate patient care needs, the patient care staff may orally invoke the process under this subdivision by notifying the charge nurse or direct supervisor of the request. A written request that meets the requirements of this subdivision must be completed before leaving the work setting at the end of the work period.

(d) A retrospective review of any process request may be initiated by the individuals involved and may be completed at the unit level or at the hospital nurse staffing committee level.

Subd. 3. **State patient care staff.** Subdivision 1 applies to patient care staff employed by the state regardless of the type of facility where the patient care staff is employed and regardless of the facility's license, if the patient care staff is involved in patient care.

Subd. 4. **Collective bargaining rights.** (a) This section does not diminish or impair the rights of a person under any collective bargaining agreement.

(b) At any point in the process provided under subdivision 2 or during any retrospective review of a process under subdivision 2, paragraph (d), involving patient care staff covered by a collective bargaining agreement, the patient care staff has the right to have a representative of the labor organization present at any meeting and have reasonable time to consult with a labor organization representative regarding the subject and purpose of the meeting.

Subd. 5. **Emergency.** A patient care staff may be required to accept an additional patient assignment in an emergency or when there is an emergency medical condition that has not been stabilized.

Subd. 6. **Enforcement.** The commissioner may enforce this section by issuing a compliance order under section 177.27, subdivision 4. The commissioner may assess a fine of up to $5,000 for each violation of this section.

Subd. 7. **Professional obligations.** (a) Nothing in this section modifies a nurse's professional obligations under sections 148.171 to 148.285.

(b) It is not a violation of the Nurse Practice Act under sections 148.171 to 148.285 or of any duty to a patient if a nurse, in good faith, makes a request under subdivision 2, paragraph (a), clause (1); fails to accept an assignment under subdivision 2, paragraph (a), clause (2); or declines an assignment after following the process in subdivision 2.

(c) Nothing in this section shall be construed to allow discrimination against classes and status protected by the Minnesota Human Rights Act, chapter 363A.