

**Initiative Petition For A Law Relative To Patient Safety And Hospital Transparency**

**Initiative Petition For A Law Relative To Patient Safety And Hospital Transparency**

Be it enacted by the People, and by their authority:

SECTION 1. SECTIONS 2 through 4 below, along with section 231 of Chapter 111 of the General Laws, shall hereby be known as "The Patient Safety Act."

SECTION 2. Chapter 111 of the General Laws is hereby amended by adding the following sections after section 231:

Section 231A. Definitions.

As used in sections 231 through 231J the following words shall have the following meanings:

"Patient assignment", a person admitted to a facility where a registered nurse accepts responsibility for the patient's direct nursing care. A patient must be assigned to a registered nurse at all times.

"Complaint", any oral or written communication by a patient, medical professional, facility or any of its employees that a facility has violated any term or condition of this act.

"Facility", a hospital licensed under section 51 of this chapter, the teaching hospital of the University of Massachusetts medical school, any licensed private or state-owned and state-operated general acute care hospital, an acute psychiatric hospital, an acute care specialty hospital, or any acute care unit within a state operated healthcare facility. This definition shall not include rehabilitation facilities or long-term care facilities.

"Health Care Workforce", personnel employed by or contracted to work at a facility that have an effect upon the delivery of quality care to patients, including but not limited to registered nurses, licensed practical nurses, unlicensed assistive personnel, service, maintenance, clerical, professional and technical workers, and all other health care workers.

"Nursing care", care which falls within the scope of practice as defined in Section 80B of Chapter 112 of the General Laws or is otherwise encompassed within recognized standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation and patient advocacy.

"Violation", any failure by a facility to abide by a term or condition of this act.

"Written Implementation Plan", a written plan detailing both the maximum number of patients to be assigned at all times to a registered nurse in each of the units enumerated in section 231C as well as concurrently detailing the facility's plans to ensure that it will implement such limits without diminishing the staffing levels of its health care workforce.

INITIALS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**Initiative Petition For A Law Relative To Patient Safety And Hospital Transparency**

- j. In all units with rehabilitation patients, the maximum patient assignment of rehabilitation patients is five (5).
- k. In any unit not otherwise listed, the maximum patient assignment is four (4).

Section 231D: Each facility shall implement the patient assignment limits established by Section 231C. However, implementation of these limits shall not result in a reduction in the staffing levels of the health care workforce.

Section 231E: The Massachusetts Health Policy Commission shall promulgate regulations governing and ensuring the implementation and operation of this act, including but not limited to regulations setting forth the contents and implementation of: (a) certification plans each facility must prepare for implementing the patient assignment limits enumerated in Section 231C, including the facility obligation that implementation of limits shall not result in a reduction in the staffing level of the health care workforce assigned to such patients; and (b) written compliance plans that shall be required for each facility out of compliance with the patient assignment limits. Notwithstanding the terms of this or any other section of this act, the Massachusetts Health Policy Commission shall not promulgate any regulation that directly or indirectly permits any delay, temporary or permanent waiver, or modification of the requirements set forth in sections 231C and 231D above.

Section 231F: Patient Acuity Tool. The patient acuity tool shall serve as an adjunct to the assessment of the registered nurse and shall be designed to promote and support the provision of safe nursing care for the patient(s); however, such tools are not to be utilized as a substitute for the assessment and clinical judgment of the registered nurse assigned to the patients. Each facility shall develop a patient acuity tool for each unit designated in Section 231C. The patient assessment and use of the patient acuity tool shall be performed by the nurse who has accepted the assignment for that patient(s). The patient acuity tool for each unit in a facility shall be developed by a committee, the majority of which is comprised of staff nurses assigned to the particular unit. The patient acuity tool shall be developed to determine if the maximum number of patients that may be assigned to a registered nurse(s) should be lower than the patient assignment limits specified in Section 231C, in which case that lower number will govern for those patients. The patient acuity tool shall be written so as to be readily used and understood by registered nurses, shall measure the acuity of patients not less frequently than each shift, upon admission of a patient, and upon significant change(s) in a patient's condition and shall consider criteria including but not limited to: (1) the need for specialized equipment and technology; (2) the intensity of nursing interventions required and the complexity of clinical nursing judgment needed to design, implement and evaluate each patient's nursing care plans consistent with professional standards of care; (3) the skill mix of members of the health care workforce necessary for the delivery of quality care for each patient; and (4) the proximity of patients to one another who are assigned to the same nurse, the proximity and availability of other healthcare resources, and facility design. A facility's patient acuity tool shall, prior to implementation, be certified by the Massachusetts Health Policy Commission as meeting the above criteria, and the Commission may issue regulations governing such tools, including their content and implementation.

INITIALS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Initiative Petition For A Law Relative To Patient Safety And Hospital Transparency**

Such patient acuity tool and information contained and documented therein shall be part of the patient medical record.

Section 231G: This act shall not be construed to impair any collective bargaining agreement or any other contract in effect as of the effective date of this act, but shall have full force and effect upon the earliest expiration date of any such collective bargaining agreement or other contract. Nothing in this act shall prevent the validity or enforcement of terms in a collective bargaining agreement or other contract that provides for a lower number of patients assigned to a nurse than the number mandated by the patient assignment limits set forth in this act.

Section 231H: Enforcement. The Massachusetts Health Policy Commission may conduct inspections of facilities to ensure compliance with the terms of this act. A facility's failure to adhere to the patient assignment limits set forth in Section 231C, as adjusted per the requirements set forth in Sections 231D and 231F, shall be reported by the Massachusetts Health Policy Commission to the Attorney General for enforcement. The Attorney General may bring a Superior Court action seeking injunctive relief and civil penalties in the amount of up to twenty-five thousand dollars per violation. A separate and distinct violation, for which the facility shall be subject to a civil penalty of up to twenty five thousand dollars, shall be deemed to have been committed on each day during which a violation continues following notice to the facility. Upon written notice by the Health Policy Commission that a complaint has been made or a violation has occurred, a facility receiving such notice shall submit a written compliance plan to the Commission that demonstrates the manner in which the facility will ensure future compliance with all of the provisions of this act within the time frame required by the Commission. No employee shall be disciplined or retaliated against in any manner for complying with the patient limits set forth in section 231C above, and any such employee so disciplined or retaliated against shall be entitled to the remedies provided in section 185(d) of chapter 149 regardless of whether the employee satisfies any other terms or conditions set forth in section 185 of chapter 149. The requirements of this act, and its enforcement, shall be suspended during a state or nationally declared public health emergency.

Section 231I: Every facility shall post in a conspicuous place or places on its premises, including within each unit, patient room, and waiting areas, a notice to be prepared or approved by the Massachusetts Health Policy Commission that is easily readable in lay terms in English and in other languages determined by the commission setting forth excerpts of this act, including all of the patient assignment limits set forth in Section 231C, along with the manner in which to report violations and such other relevant information which the commission deems necessary to explain the requirements of this act. Any facility subject to this act which refuses to comply with the provisions of this section shall be punished by a civil penalty of not less than two hundred and fifty dollars and not more than two thousand five hundred dollars for each day the facility is not in compliance. The provisions of this section shall be enforced by the Attorney General.

INITIALS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Initiative Petition For A Law Relative To Patient Safety And Hospital Transparency**

Section 231J: The Massachusetts Health Policy Commission shall establish a toll-free telephone number where complaints against facilities can be reported, and a public website where complaints, certification and compliance plans, and violations shall appear and be updated at least quarterly for each facility. The toll-free telephone number and website location shall be included in all notices prepared and posted pursuant to Section 231I above.

SECTION 2: Severability. The provisions of this act are severable, such that, if any clause, sentence, paragraph or section, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder of any clause, sentence, paragraph or section thereof and shall be confined in its operation to such clause, sentence, paragraph, section or application adjudged invalid; provided further, that any such clause, sentence, paragraph, section or application deemed invalid shall be reformed and construed such that it would be valid to the maximum extent permitted.

SECTION 3: This act shall take effect on January 1, 2019.

*Pursuant to Article 48 of the articles of amendment of the Constitution of the Commonwealth of Massachusetts, as amended by Article 74, the following duly qualified voters hereby submit the foregoing measure for approval by the People.*

SIGNATURE

PRINT NAME

ADDRESS

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

INITIALS

_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____