

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s, or legislator’s request.

BILL SUMMARY

Summary Synopsis: House Bill 83 calls for new legislation titled the “Safe Staffing Act”, which generally would require hospitals to establish nursing staffing plans for each hospital nursing unit.

It would require a hospital, defined by the Act as “any general or special hospital licensed by the [New Mexico Department of Health], whether publicly or privately owned,” to create a nursing staffing committee made up of seven nurses who provide direct patient care and are not nurse managers or hospital administrators, and four other qualified persons as determined by the hospital. The duties of the nursing staffing committee include (1) developing a staffing plan for each of the hospital’s nursing units; (2) selecting outcome indicators for each unit from among certain national databases; (3) conducting annual or more frequent reviews of the staffing plan for each unit; and (4) conducting annual or more frequent reviews of the outcome indicators for each unit.

House Bill 83 mandates that each hospital unit’s staffing plan shall (1) specify the minimum number of nurses and ancillary staff required for each unit shift based upon the level of intensity of patient care required and the variability in the number of admissions, discharges and transfers; (2) take into account conditions or circumstances determined by a majority vote of the committee; (3) contain an algorithm formulated and adopted by the hospital for maintaining nursing staffing levels determined by the committee; (4) prohibit a hospital from achieving nursing staffing levels with mandated overtime.

House Bill 83 requires hospitals to conspicuously post within one hour of the start of each shift a daily report in each of its nursing units that contains information on patient census, and planned and actual staffing levels for each shift. It also requires hospitals to electronically submit to Department of Health (“DOH”) for public disclosure on DOH’s web site quarterly reports containing the above information for each day of the previous quarter and the number of daily admissions, discharges, and transfers for each unit shift.

House Bill 83 mandates that DOH shall (1) prescribe the format, form and due dates for the hospital quarterly reports to ensure that reports permit consumers of hospital services to make meaningful comparisons of hospital nursing staffing levels; (2) promptly publish each hospital quarterly report on its web site for public inspection; (3) periodically audit the information contained in the hospital quarterly reports; (4) enforce a hospital’s compliance with the act and any related rules promulgated by DOH through the imposition of penalties and corrective action, which enforcement actions also shall be published on DOH’s web site;

and (5) promulgate rules necessary to implement and enforce the act. House Bill 83 appropriates and allocates in a certain manner one hundred thousand dollars (\$100,000) to DOH to carry out these duties.

House Bill 83 affords nurses the right to refuse an assignment if the nurse lacks the requisite education, training and experience to ensure patient safety, or if the assignment is outside the nurse's scope of practice. It also contains a whistleblower protection provision making it unlawful for a hospital to discriminate or retaliate against an employee as a result of a grievance or complaint relating to the various provisions of the Act, including a nurse's right to refuse an assignment.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL None to this office.

SIGNIFICANT LEGAL ISSUES None.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL None to this office.

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION None at this time.

TECHNICAL ISSUES OR DRAFTING ERROR Section 3 of Senate Bill 83 does not indicate who or how the seven nurses serving on the nursing staffing committee are selected, nor does it provide any criteria for the other four "qualified persons" serving on the committee. Section 7 of the Bill states that a nurse may refuse an assignment if the nurse lacks the requisite education, training and experience, or the assignment is outside the nurse's scope of practice but does not indicate who or what entity makes the determination regarding these requisites or scope of practice

OTHER SUBSTANTIVE LEGAL ISSUES

ALTERNATIVES TO ENACTING THIS BILL

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status quo.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

Under Section 3, the following language may be added: The selection of nurses who provide direct patient care shall be according to the collective bargaining agreement, if one is in effect at the hospital. If there is no applicable collective bargaining agreement, members of the nursing staffing committee who are nurses providing direct patient care shall be selected by their peers.

Under Section 7, the following language may be considered: A nurse may refuse an assignment if in the _____ (nurse's or committee's) judgment: . . .