

An Act to Address Unsafe Staffing of Nurses and Improve Patient Care

L.D. 1639

Date:

(Filing No. S-)

LABOR AND HOUSING

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 656, L.D. 1639, “An Act to Address Unsafe Staffing of Nurses and Improve Patient Care”

Amend the bill in section 1 in c. 404-A in §1793 by inserting after subsection 2 the following:

3. Critical access hospital. "Critical access hospital" has the same meaning as in section 7932, subsection 10.'

Amend the bill in section 1 in c. 404-A in §1793 in subsection 5 in the last line (page 2, line 3 in L.D.) by inserting after the following: "405." the following: "Health care facility" does not include a state institution as defined in Title 34-B, section 1001, subsection 8.'

Amend the bill in section 1 in c. 404-A in §1793 by renumbering the subsections to read consecutively.

Amend the bill in section 1 in c. 404-A in §1794 in the first indented paragraph in the first line (page 2, line 13 in L.D.) by striking out the following: "section 1795" and inserting the following: 'sections 1795 and 1796'

Amend the bill in section 1 in c. 404-A in §1794 in subsection 1 in the first line (page 2, line 17 in L.D.) by striking out the following: "A" and inserting the following: 'Beginning July 1, 2025, a'

Amend the bill in section 1 in c. 404-A by striking out all of §1795 (page 5, lines 29 to 35 in L.D.) and inserting the following:

§1795. Exception to staffing requirements

1. Declared state of emergency. The direct-care registered nurse staffing assignments required pursuant to sections 1794 and 1796 do not apply when there is a declared state of emergency. It is a defense to a complaint alleging a violation of section 1794 or 1796 filed against a health care facility under chapter 405 if the facility demonstrates that it undertook prompt and diligent efforts to maintain the staffing assignments required pursuant to sections 1794 and 1796, despite the declared state of emergency.

2. Local emergency event. The direct-care registered nurse staffing assignments required pursuant to sections 1794 and 1796 do not apply to a health care facility when there is a local emergency event. It is a

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defense to a complaint alleging a violation of section 1794 or 1796 filed against a health care facility under chapter 405 if the facility demonstrates that:

- A. The violation resulted from an unpredictable and uncontrollable rapid increase in patient levels at the health care facility due to a local emergency event, such as an accident, violence or a natural disaster, that caused multiple casualties and severe injuries; and
- B. The health care facility undertook prompt and diligent efforts to maintain the staffing assignments required pursuant to sections 1794 and 1796, despite the local emergency event.

§1796. Minimum staffing requirements of direct-care registered nurses in critical access hospitals

A critical access hospital shall assign at least the number of direct-care registered nurses at all times during every shift consistent with the minimum requirements established in this section, and at no time may a critical access hospital assign fewer than 2 direct-care registered nurses in a patient care unit. A critical access hospital shall assign at least the number of direct-care registered nurses at all times during every shift consistent with the minimum requirements established in this section.

1. Requirements beginning July 2025. Beginning July 1, 2025, a critical access hospital shall assign a direct-care registered nurse to no more than:

- A. Two patients when the patients are receiving neonatal intensive care;
- B. Four patients when:
 - (1) The patients are receiving step-down or intermediate care; or
 - (2) The direct-care registered nurse is assigned to a patient care unit that receives patients requiring step-down or intermediate care, including, but not limited to, a step-down or intermediate care unit;
- C. Four patients when:
 - (1) The patients are receiving telemetry services; or
 - (2) The nurse is assigned to a patient care unit that receives patients requiring telemetry services;
- D. Five patients when:
 - (1) The patients are receiving medical surgical care services; or
 - (2) The nurse is assigned to a patient care unit that receives patients requiring medical surgical care services; and
- E. Five patients when:
 - (1) The patients are receiving specialty care services; or
 - (2) The nurse is assigned to a patient care unit receiving patients requiring specialty care services, including, but not limited to, a specialty care unit, neurological care unit, gastrointestinal unit, orthopedic unit or any other unit that is organized, operated and maintained to provide care for a specific medical condition or a specific patient population.

This subsection is repealed July 1, 2026.

2. Requirements beginning July 2026. Beginning July 1, 2026, a critical access hospital shall assign a direct-care registered nurse to no more than:

- A. One patient when the patient is receiving neonatal intensive care;
- B. Three patients when:

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- (1) The patients are receiving step-down or intermediate care; or
- (2) The direct-care registered nurse is assigned to a patient care unit that receives patients requiring step-down or intermediate care, including, but not limited to, a step-down or intermediate care unit;

C. Three patients when:

- (1) The patients are receiving telemetry services; or
- (2) The nurse is assigned to a patient care unit that receives patients requiring telemetry services;

D. Four patients when:

- (1) The patients are receiving medical surgical care services; or
- (2) The nurse is assigned to a patient care unit that receives patients requiring medical surgical care services; and

E. Four patients when:

- (1) The patients are receiving specialty care services; or
- (2) The nurse is assigned to a patient care unit receiving patients requiring specialty care services, including, but not limited to, a specialty care unit, neurological care unit, gastrointestinal unit, orthopedic unit or any other unit that is organized, operated and maintained to provide care for a specific medical condition or a specific patient population.

§1797. Department to establish critical access hospital flexibility

1. Department to establish critical access hospital flexibility. The department shall establish a process for critical access hospitals to request flexibility regarding the direct-care registered nurse staffing requirements set forth in section 1796. In establishing the process, the department must include the following criteria:

- A. The department may approve flexibility requests related to the direct-care registered nurse staffing requirements on an individual-hospital basis;
- B. The flexibility allowances must cover a period of time not to exceed 6 months;
- C. Only flexibility requests that do not jeopardize the health, safety or well-being of patients affected may be considered;
- D. A critical access hospital seeking flexibility shall submit a written request with supporting evidence to the department;
- E. A critical access hospital that has laid off any clinical staff within the previous 6 months is not eligible for a flexibility allowance; and
- F. Where applicable, the department shall solicit comments from the collective bargaining agent that represents the registered nurses in a critical access hospital that is seeking flexibility.'

Amend the bill in section 1 in c. 404-A in §1796 in the first indented paragraph in the last line (page 5, line 38 in L.D.) by striking out the following: "section 1794" and inserting the following: 'sections 1794 and 1796'

Amend the bill in section 1 in c. 404-A in §1796 in subsection 1 in the last line (page 5, line 41 in L.D.) by striking out the following: "1797" and inserting the following: '1799'

Amend the bill in section 1 in c. 404-A in §1796 in subsection 3 in the 7th line (page 6, line 10 in L.D.) by striking out the following: "section 1794" and inserting the following: 'sections 1794 and 1796'

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Amend the bill in section 1 in c. 404-A in §1796 in subsection 7 in the last line (page 6, line 35 in L.D.) by striking out the following: "section 1794" and inserting the following: 'sections 1794 and 1796'

Amend the bill in section 1 in c. 404-A in §1796 in subsection 9 in the last line (page 6, line 42 in L.D.) by striking out the following: "section 1794" and inserting the following: 'sections 1794 and 1796'

Amend the bill in section 1 in c. 404-A in §1798 by inserting after subsection 2 the following:

3. Construction. This Act may not be construed to limit the use of technology by a direct-care registered nurse as part of the nurse's typical duties and scope of practice.'

Amend the bill in section 1 in c. 404-A in §1799 in subsection 4 in paragraph B in the 2nd line (page 8, line 22 in L.D.) by inserting after the following: "1794" the following: 'or 1796'

Amend the bill in section 1 in c. 404-A in §1802 in the first indented paragraph in the first line (page 10, line 4 in L.D.) by striking out the following: "1804" and inserting the following: '1806'

Amend the bill in section 1 in c. 404-A in §1802 by striking out all of subsection 3 (page 10, lines 15 to 23 in L.D.) and inserting the following:

3. Sanctions. The department may impose the following administrative penalties on a health care facility.

A. Beginning July 1, 2026, except as provided in paragraph C, for violations of subsection 1 or sections 1794, 1796, 1798, 1799, 1800, 1801 and 1802 or a rule adopted to implement this section or those sections, the department may assess a fine of not more than \$5,000 per nursing shift in violation. Each day a health care facility violates subsection 1 or section 1794, 1796, 1798, 1799, 1800, 1801 or 1802 is a separate offense.

This paragraph is repealed July 1, 2027.

B. Beginning July 1, 2027, except as provided in paragraph D, for violations of subsection 1 or sections 1794, 1796, 1798, 1799, 1800, 1801 and 1802 or a rule adopted to implement this section or those sections, the department may assess a fine of not more \$10,000 per nursing shift in violation. Each day a health care facility violates subsection 1 or section 1794, 1796, 1798, 1799, 1800, 1801 or 1802 is a separate offense.

C. Beginning July 1, 2026, for violations of section 1801, subsection 5 or a rule adopted to implement that subsection, the department may assess a fine of not more than \$12,500 per nursing shift.

This paragraph is repealed July 1, 2027.

D. Beginning July 1, 2027, for violations of section 1801, subsection 5 or a rule adopted to implement that subsection, the department may assess a fine of not more \$25,000 per nursing shift.'

Amend the bill in section 1 in c. 404-A by striking out all of §1803 (page 10, lines 24 to 41 and page 11, lines 1 and 2 in L.D.) and inserting the following:

§1803. Civil violations

This section governs violations under this chapter.

1. Violation of health care facility staffing requirements. This subsection applies to violations of sections 1794, 1796, 1798, 1799, 1800 and 1802 and section 1804, subsection 1.

A. A health care facility may not violate section 1794, 1796, 1798, 1799, 1800 or 1802 or section 1804, subsection 1 or a rule adopted to implement those sections.

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B. A health care facility that violates paragraph A commits a civil violation for which a fine may be adjudged as follows:

(1) Beginning July 1, 2026, not more than \$5,000 per nursing shift in violation. This subparagraph is repealed July 1, 2027; and

(2) Beginning July 1, 2027, not more than \$10,000 per nursing shift in violation.

Each day a health care facility violates paragraph A is a separate offense.

2. Violation for interfering or retaliating for a nurse's objection or refusal; violation. This subsection applies to violations of section 1801, subsection 5.

A. A health care facility, an employee of a health care facility who is primarily responsible for managing the health care facility or an employee of a health care facility who is primarily responsible for providing patient care services may not violate section 1801, subsection 5 or a rule adopted to implement that subsection

B. A health care facility, an employee of a health care facility who is primarily responsible for managing the health care facility or an employee of a health care facility who is primarily responsible for providing patient care services who violates paragraph A commits a civil violation for which a fine may be adjudged as follows:

(1) Beginning July 1, 2026, not more than \$12,500 per nursing shift. This subparagraph is repealed July 1, 2027; and

(2) Beginning July 1, 2027, not more than \$25,000 per nursing shift.'

Amend the bill in section 1 in c. 404-A in §1805 in the first indented paragraph in the 2nd line (page 11, line 8 in L.D.) by striking out the following: "1799" and inserting the following: '1801'

Amend the bill in section 1 in c. 404-A by inserting after §1806 the following:

§1807. Applicability

The requirements in section 1794 apply for patients or units not mentioned in section 1796 and for all other health care facilities except for critical access hospitals. If a requirement in section 1794 and a separate requirement in section 1796 both apply to a patient, the health care facility shall assign a direct-care registered nurse in accordance with the lowest numerical patient assignment applicable to the patient.'

Amend the bill in section 1 in c. 404-A by renumbering the sections to read consecutively.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee. The amendment exempts state institutions from the requirements of the Maine Quality Care Act enacted in the bill. It provides that a health care facility must comply with the direct-care registered nurse staffing requirements beginning July 1, 2025. It establishes different direct-care registered nurse staffing requirements for critical access hospitals beginning July 1, 2025 and changes those requirements again on July 1, 2026. The amendment requires the Department of Health and Human Services to establish a process for critical access hospitals to request flexibility regarding direct-care registered nurse staffing requirements. It also provides for a defense to a complaint regarding a violation of the direct-care registered nurse staffing levels at health care facilities for local emergencies, including

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accidents, violence and natural disasters. The amendment also phases in the monetary penalties at 50% of the penalty in the bill beginning July 1, 2026 and increasing to 100% of the penalty in the bill on July 1, 2027.

FISCAL NOTE REQUIRED

(See attached)