

CHA Talking Points

SB 227 (Leyva) – Oppose June 10, 2019

Excessive Financial Penalties for Nurse Ratio Violations Add Costs Without Improving Quality of Care

- 1. SB 227 would impose additional, excessive financial penalties on hospitals for any nurse staffing ratio violation, even when no patient is harmed or at risk of harm.**
 - State officials already conduct unannounced inspections of hospitals to ensure patient safety and quality of care. Under current law, penalties of up to **\$125,000** can be imposed whenever an inspection finds that a patient was harmed or placed at risk of harm, **including any failure to meet staffing ratios.**
 - SB 227 would impose excessive additional fines — **\$30,000** for the first violation and **\$60,000** for every subsequent violation — even when no patient is harmed or placed at risk of harm.
 - Adding fines when there is no harm to patients further increases the cost of health care for all Californians.
- 2. Infractions of the nurse staffing ratio requirements are incredibly rare.**
 - **In the 10 years between 2008 and 2017**, California's 400 hospitals provided nearly 35 million hours of patient care. Yet, during the same time period, **the state found a mere 634 staffing violations – less than 1/500th of 1% of hospital hours**, the vast majority of which posed little to no risk of patient harm.
 - Given the rarity of staffing ratio violations found by state officials over 10 years, it's clear that compliance is largely achieved and existing oversight and penalties are effective.
- 3. SB 227 precludes state health officials from using any judgment if a staffing ratio is temporarily not met.**
 - Under current California law, state health officials may evaluate the circumstances, especially whether there was patient harm, and exercise judgement about the use of penalties.

- SB 227 applies fixed monetary penalties — in each and every case — where a staffing ratio may be missed, regardless of the situation or impact, removing the use of any judgement by regulators as is the case today.

4. Before doubling down on penalties that exist today and adding more cost to health care in California, legislators should know whether existing staffing ratios have actually improved care.

- Following the implementation of staffing ratios in 2004, the state (under the provisions of AB 394, Statutes of 1999) was supposed to conduct an evaluation after five years. However, that evaluation was never conducted. And a host of independent academic studies have concluded that there is no causal link or statistically significant difference in patient outcomes with or without ratios.
- In other words, **nobody can say for certain if these 15-year-old, arbitrary ratios improve patient care.**

5. Nurse staffing decisions are best made by clinical professionals on the patient care floors, not by state government. Only clinical professionals, in the moment, can best evaluate staffing needs based on patient acuity, emergency surge events, nurses' needs and more.

- It is a hospitals' mission and duty to care for patients. Ensuring that every patient receives timely and appropriate care from qualified nurses is core to that mission.
- Every day, California hospitals have staffed and continue to staff to ensure compliance with required nurse ratios "at all times," but an unexpected emergency or illness of a scheduled nurse can jeopardize a staffing plan. For example, if a nurse gets a call from her child's school that her son is sick, she may have to unexpectedly leave work before the end of her shift. Or, if a patient's condition suddenly changes, the nurse may need to escort the patient to another part of the hospital, which may leave a nursing unit out of ratio compliance for just minutes.
- Significant increases in protected time for California workers, including nurses (e.g. Family Medical Leave Act, grievance policies, KinCare, etc.) and a shortage of nurses in some parts of the state, also complicate mandated nurse-to-patient ratio staffing.