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Current Status of Nursing Law in the United States and Implications

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Abstract

To identify 11 states that has passed legislation addressing nurse staffing in the United States.

Methods: This systematic review was guided by a preliminary literature review that identified relevant research terms including nurse(ing) staffing, license, certification, healthcare professionals, and nursing law. An online search of the electronic bibliographic databases MEDLINE, CINAHL, OVID, Westlaw (International materials-Jurisdiction), U.S. National Conference of State Legislatures, and Google Scholar yielded journal articles, nursing acts, and websites from 2009 to 2015.

Results: Most nursing laws require staffing committees in each hospital to develop staffing strategies. Staffing committees should include direct-care nurses. Illinois, Oregon, Washington, and Texas require at least 50~60% registered nurses on the committee. Nursing laws in California, New York, and Massachusetts proposed a specific nurse–patient staffing ratio in consideration of the severity of need of patients or units. Furthermore, California enacted minimum staffing ratios. California reported decreased patient mortality, decreased turnover of nursing staff, and increased satisfaction and retention of nurses.

Conclusion: It is timely to have nursing laws worldwide that establish minimum numbers of nurses with professional competencies for the health and safety of global citizens.

Keywords Nursing law; Nurse staffing

Introduction

Providing high-quality nursing services to emphasize the health and safety of the public has become a major issue around the world. The International Council of Nurses, Agency for Healthcare Research Quality, and the Joint Commission: Accreditation, Health Care, Certification emphasized the importance of nursing services provided by stable and competent professional nurses [1]. Nurses, who comprise the

greatest number of healthcare providers, are an essential workforce, many international studies reported that providing stable nurse staffing closely relates to patients' safety and quality of care in hospital and long-term-care settings [2]. Having enough nurse staffing can decrease 60% of patient mortality from abdominal aorta [3], recurrence and mortality from heart disease, and 18% of medication errors. Adequate nurse staffing can also decrease the number of falls and pressure sores. If the ratio of nurses to patients is under 4.95, nurses have sufficient time to educate patients, decreasing the recurrence of heart diseases to 7%, acute myocardial infarction to 6%, pneumonia to 10%, and patient stay days in a facility to 5.7% [3]. If the number of nurses is 4 to 6 in the intensive care unit, death rates of patients decrease to 7 per 100 patients [4].

In addition, ongoing reports from many studies in nursing homes showed that quality of care of residents improved with increased nurse staffing levels. The contribution of registered nurses (RNs) compared with unlicensed nursing personal such as licensed practical nurses (LPNs) and certified nurse aids (CNAs) has supported the decreased use of restraints, psychoactive drugs, depression, cognitive-function decline [5], pressures sores, and mortality. Additionally, higher numbers of RNs led to increased function of the elderly [6] and early discharge from a facility [7]. Employing gerontological advanced-practice nurses in nursing homes related to improvement in the general functions of residents [8]. Despite the paramount importance of stable and competent nurse staffing, no academic studies have been conducted about nursing law; related research is needed urgently. In this study, we attempted to use baseline data on enacted nursing laws by reconsidering the definition of nurse staffing, gleaned through consideration of U.S. laws about nurse staffing.

Methods

Research design

We identified 11 states in the United States that have passed legislation addressing nurse staffing.

Bibliographic search strategy

Bibliographic search method: The literature review on nurse staffing was conducted in CINAHL Plus with Full Text, OVID, and PubMed, and research about the definition of nurse staffing and nursing law was conducted on the Westlaw (International Materials-Jurisdiction) site, National Conference of State Legislatures site, and Google scholar.

Search terms: The following keywords were the search terms: *nursing law, nurse, nurse staffing, health, certification, license, and staffing.*

Literature selection criteria: Articles chosen were published in English between 2009 and 2015.

Results

Searching through the data, we analyzed 14 studies and 11 state nursing laws in the United States.

Table 1: Federal Law

Law	Definition	Main characteristics
42 Code of Federal Regulations 482.23(b)	Requires Medicare-certified hospitals to maintain all levels of adequate direct-care staff.	11 states have staffing laws. CA is the only state that stipulates minimum nurse-patient ratios; MA has laws specific to ICUs requiring 1:1 or 1:2 ratios, depending on patient stability.

California: California is the only state that enacted a law about minimum staffing ratios of nurses. In the Nurse Staffing Standards for Patient Safety and Quality Care Act of 2013 (H.R., 1907), California Nurse-to-Patient Ratio law A.B.394 1999-2000 Reg. Sess. (Cal. 1999), the state proposed a plan for each unit to have an appropriate ratio of nurses to the number of patients and limited mandatory overtime [11,12].

New York: The Safe Staffing for Quality Care Act S3691A-2013, provided an appropriate nurse-to-patient ratio for every unit, requiring facilities to announce nurse-staffing information to the public. The New York law suggested the hours per resident day

Nursing laws

The U.S. federal government (through 42 codes of federal regulation) requires hospitals certified to participate in Medicare to have adequate staffing [9]. However, only 14 states currently address nurse staffing in laws. Regulations required states to maintain appropriate nurse staffing in hospitals that participate in Medicare (see Table 1). The current law is ambiguous in that the federal government lets each state enacts specific laws about nurse staffing related to patients' safety [10]. The 11 states studied in this review have established current laws on nurse staffing, and New Mexico, North Carolina, the District of Columbia, and Maine are in the process of enacting nursing laws [10] (Table 2).

for nursing homes as 0.75 hours per RN day, 1.3 to LPNs per day, and 2.8 to CNAs per resident day [13]. In the Safe Staffing for Hospital Care Act Bill S1634-2013 (pending), the legislature not only presented minimum nurse staffing, but also suggested that more than 50% of nursing staffs must provide direct care to patients, except for administrative workers and education personnel [13].

Massachusetts: In Massachusetts, on the basis of Bill H. 4228, every intensive care unit has to arrange a nurse-to-patient ratio of 1:1 or 1:2, depending on patient's severity of need [14].

Table 2: Nursing Laws by States.

1. California			
Law	Definition	Current status	Main characteristics
Nurse Staffing Standards for Patient Safety and Quality Care Act of 2013 (H.R. 1907)	<ul style="list-style-type: none"> Federal nurse-patient staffing ratios in all hospitals Restrict mandatory RN overtime to emergencies 	<ul style="list-style-type: none"> Sponsor: Rep Schakowsky, Janice D. [IL-9] (introduced 5/9/2013) 38 Cosponsors Related Bill: S. 739 Latest Major Action: 6/3/2013 Referred to House subcommittee. Status: Referred to Subcommittee on Health. 	Direct-care RNs may be assigned to patients ranging from 1 (trauma) to 6 (postpartum), depending on the immediacy and severity of the need.

California Nurse-to-Patient Ratio Law A.B. 394, 1999-2000 Reg. Sess. (Cal. 1999).	<ul style="list-style-type: none"> Mandating minimum licensed nurse-patient ratios Licensed nurses include RNs, LVNs/LPNs 	Enacted	<ul style="list-style-type: none"> Hospitals must meet fixed nurse-patient ratios ranging from 2:1 (intensive care) to 6:1 (psychiatric units)
			<p><Research Results></p> <ul style="list-style-type: none"> Hospitals must comply with the law, yielding no negative impact. Actively licensed RNs increased by 60,000 (60%) enabling hospitals to easily meet the standard. Patient-care quality remained the same; but lower mortality and better nurse retention resulted.

2. New York

Law	Definition	Current status	Main characteristics
Safe staffing for quality care act S3691A-2013	<ul style="list-style-type: none"> Acute-care facilities and nursing homes implement direct-care nurse-patient ratios in all units; set minimum staffing requirements; annual documented staffing plans; acute-care facilities maintain staffing records; authorized nurses to refuse work assignments beyond their abilities or if minimum staffing is not present; required public access to plans; imposed civil penalties for violations; established private right of action for nurses refusing illegal work assignments. 		<ul style="list-style-type: none"> Nurse ratios established by unit; violators face prosecution; staffing for acuity, as patient needs dictate; Hospitals cannot count assistive personnel toward ratios and must provide sufficient assistive personnel. Must disclose staffing levels publicly; hospital may not average staff (staffing ratios are minimums); floating nurses must demonstrate competence and have undergone orientation in the clinical area. <p>Nurse to Patient Ratios</p> <p>Trauma emergency 1:1, Operating room 1:1</p> <p>All intensive care 1:2, Emergency critical care 1:2</p> <p>Post anesthesia care 1:2, Labor-1st stage 1:2</p> <p>Labor-2nd & 3rd stage 1:1, Antepartum 1:3</p> <p>Non-critical antepartum 1:4, Newborn nursery 1:3</p> <p>Intermediate care nursery 1:3, Post-partum couples 1:3</p> <p>Post-partum mother-only 1:4, Well-baby nursery 1:6</p> <p>Emergency department 1:3, Step-down & telemetry 1:3</p> <p>Pediatrics 1:3, Medical-surgical 1:4</p> <p>Acuter care psychiatric 1:4, Habilitation & sub-acute 1:5</p> <ul style="list-style-type: none"> In nursing homes, minimum care hours per resident per day for RNs (0.75, divided among shifts), LPNs (1.3) and CNAs (2.8).
Safe Staffing for Hospital Care Act Bill S. 1634-2013	<ul style="list-style-type: none"> Minimum staffing levels for healthcare workers in various healthcare facilities; staffing plans; no mandatory overtime. 	<ul style="list-style-type: none"> 2013, died in committee; 2014 referred to health committee, 2015 Pending Senate Health Committee 	<ul style="list-style-type: none"> Facilities must identify assessment tools documenting daily staffing; assess last year's staffing plan; and recognize the staff grouping system with qualifications, established with input from direct-care nursing staff or permitted collective-bargaining representative. Defines minimum direct-care nurse-patient ratios. Requires regulations on minimum nurse-patient ratios. When additional staffs are needed, must staff at the higher level. Skill mix must ensure specific elements. RN must be 50% of direct-care nurses. No unlicensed personnel may perform duties limited to licensed personnel. Facilities must be staffed at all times, and may staff at higher ratios than required. RNs must be appropriately licensed, receive appropriate orientation, and verify competence. Facilities maintain accurate records per diem Forbids obligatory overtime except throughout emergencies situations acknowledged by the Governor. Limits work hours and requires off-duty hours. Overtime is allowed if agreed in collective bargaining, with adequate measurement to avoid burnout of staff. Facilities must accept and distribute written policies about when direct-care registered nurses may refuse a work assignment and cannot penalize employees who act in good faith to refuse a work assignment. People injured in violation of this article are protected. The Commissioner of Health adopts and enforces rules on compliance. Healthcare facilities must comply; pay reasonable attorney's and expert fees, and other costs regarding an action.

3. Massachusetts

Law	Definition	Current status	Main characteristics
Bill H. 4228	An Act relative to patient limits in all hospital intensive-care units	Effective September 24, 2014	<ul style="list-style-type: none"> Nurse-patient ratio in intensive care units is 1:1 or 1:2 depending on patient stability, assessed by the acuity tool and staff nurses; disagreements are resolved by nurse managers or designees.

4. Connecticut

Law	Definition	Current status	Main characteristics
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Public Act 08-79, An Act Concerning Hospital Staffing	<ul style="list-style-type: none"> An act concerning hospital staffing 	<ul style="list-style-type: none"> Effective July 1, 2009 	<ul style="list-style-type: none"> Hospitals must establish a hospital staffing committee to prepare the nurse staffing plan, comprised of at least 50% RNs providing direct patient care. Hospitals may use an existing committee. *Hospitals must develop and implement a nurse staffing plan, including the minimum professional skill mix for each patient-care unit in the hospital; identify employment practices for temporary and traveling nurses; determine administrative staffing levels in each unit to ensure direct-care staff are not used for administrative functions; determine the process for internal review of the plan; and include the mechanism to obtain input from direct-care staff.
5. Illinois			
Law	Definition	Current status	Main characteristics
Public Act 095-0401	<ul style="list-style-type: none"> Nurse Staffing by Patient Acuity 	Effective January 1, 2008.	<ul style="list-style-type: none"> Facilities must post and implement the staffing plan recommended by a committee of nurses (at least 50% direct-care nurses), with broad representation. The plan must include the complexity of nursing judgment required, patient acuity, number of patients, ongoing assessment, unexpected patient needs, time for documentation, and staffing flexibility. Committee minutes must be stored for 5 years and must be given significant regard in the adoption & implementation of the plan The plan must outline the process for submitting committee's recommendations to administration; the process for providing feedback to the committee regarding unresolved or ongoing issues, which must be addressed at the next meeting Nursing Performance and Quality data must be reviewed by the staffing committee semiannually.
6. Nevada			
Law	Definition	Current status	Main characteristics
Patient Protection and Safe Staffing bill (SB 362)	<ul style="list-style-type: none"> Minimum Nurse Staffing Ratios Bill 	<ul style="list-style-type: none"> Passed May 5, 2009; Approved by the Governor. Chapter 227 	<ul style="list-style-type: none"> Hospitals must create an acuity system and annual staffing plan, including minimum nurse-patient ratios and penalties for failing to meet ratios. Staffing committees set matrixes for all units to provide quality patient care and develop policies to ensure adherence. The policy protects nurses and certified nursing assistants from retaliation if they refuse an assignment and establishes investigations, penalties, and fines for medical facilities that do not develop and implement staffing plans. The health division oversees staffing committees, policies, and patient ratios; acknowledges nursing labor unions; and recognizes additional provisions in the negotiated contract to use Acceptance Despite Objection Forms, affording everyone the same rights, whether or not they are in a union!
7. Oregon			
Law	Definition	Current status	Main characteristics
Nurse Practice Act (Oregon Revised Statutes, Chapter 678.010-678.445)	n/a	<ul style="list-style-type: none"> Enacted 	Hospitals develop a hospital wide nurse staffing plan with input of direct-care nurses
8. Rhode Island			
Law	Definition	Current status	Main characteristics
Rhode Island Law § 23-17.17-8	<ul style="list-style-type: none"> Requires hospitals to submit a staffing plan that delineates the average number and mix of nursing personnel assigned to each unit/shift 	<ul style="list-style-type: none"> Enacted 	<p>Annually in January, every licensed hospital must submit its core-staffing plan, specifying each patient-care unit, shift, number of each level of nurses ordinarily assigned to provide direct patient care, average number of patients, and projected number of direct-care, non-managerial nursing staff.</p>
9. Texas			
Law	Definition	Current status	Main characteristics
Health and safety code Chapter 257. Nurse Staffing	n/a	<ul style="list-style-type: none"> Enacted 	<ul style="list-style-type: none"> Established standing nurse-staffing committee of representative types of nursing services; the chief nursing officer is a voting member; must include a minimum of 60% RNs who provide direct patient care during at least 50% of their time, selected by peers; must meet at least quarterly. Committee participation is paid work time, substituting for other work duties. The committee develops and recommends a nurse staffing plan to the hospital's governing body, which reviews, assesses, and responds to staffing concerns expressed to the committee The committee identifies nurse-sensitive outcome measures used to evaluate the effectiveness of the staffing plan; evaluates plan effectiveness; semiannually reports on nurse staffing and

			patient-care outcomes; and evaluates plan effectiveness considering patient needs, nursing-sensitive quality indicators, nurse-satisfaction measures, and evidence-based nurse-staffing standards.
10. Vermont			
Law	Definition	Current status	Main characteristics
VT Statute Title 18 § 1854	• Public access to information	• Enacted	Hospitals make public the maximum patient census and the number of RNs, licensed practical nurses, and licensed nursing assistants providing direct patient care by unit and shift using full-time equivalents (every 8 or 12 hours worked by an RN, licensed practical nurse, or licensed nursing assistant as one full-time equivalent). Facilities report results, posted prominently and readily accessible to patients and visitors once each day for the previous 7 days.
11. Washington			
Law	Definition	Current status	Main characteristics
RCW 70.41.420	n/a	• Enacted	<ul style="list-style-type: none"> • Hospitals establish either a new nurse staffing committee or assign functions to an existing committee. At least half the members are RNs currently providing direct patient care, up to half selected by the hospital administration aligned with existing collective-bargaining agreements. Lacking a collective-bargaining agreement, peers select RN members. Participation is scheduled, and work time compensated, replacing all other work duties during meetings. • Responsibilities include developing and overseeing annual patient care and a shift-based nurse staffing plan, based on patients' needs. The Plan includes patient census by shift and activity (discharges, admissions, and transfers); level of intensity of patients; nature of care delivered; skill mix; level of experience and specialty certification or training of nurses; needs for specialized or intensive equipment; architecture and geography of the patient-care unit (patient room placement, treatment areas, nursing stations, medication preparation areas, and equipment); and staffing guidelines from national nursing professional associations, specialty nursing organizations, and other health-professional organizations; semiannual review of nursing-sensitive quality indicators and staffing concerns. • The committee considers hospital finances and resources. • Hospitals post the plan in a public area in each patient-care unit, including the nurse-staffing schedule for that shift. • Hospitals may not retaliate against or intimidate employees for performing on the committee or employees, patients, or others who notify the committee or hospital administration of concerns. • Critical-access hospitals may develop flexible approaches to accomplish the requirements, including holding meetings by telephone or email.

Connecticut: On the basis of Public Act 08-79, An Act Concerning Hospital Staffing, Connecticut law requires that every hospital organize a staffing committee. Each facility must make regulations that specify use of temporary nurses, and the law suggests a minimum nursing skill-mix ratio [15].

Illinois: On the basis of Public Act 095-0401, Illinois law requires that every hospital organize a staffing committee that includes a majority of members who are direct-care nurses. Also, the hospital must administrate general matters about nurse staffing such as records, representativeness, and quality management [16].

Nevada: On the basis of the Patient Protection and Safe Staffing Bill (SB 362), Nevada law requires that every hospital organize a staffing committee and establish standards for high-quality patient care. If hospitals do not develop a staffing plan, Nevada law suggests they will be investigated and assessed penalties and fines [17].

Oregon: On the basis of the Nurse Practice Act (Oregon Revised Statutes, Chapter 678.010-678.445), Oregon law requires that every hospital make a hospital nurse-staffing plan that includes direct-care nurses [18].

Rhode Island: On the basis of Rhode Island Law § 23-17.17-8, hospitals in Rhode Island must submit a nurse-staffing plan to present the average nursing skill mix for each unit and each shift [19].

Texas: On the basis of the Health and Safety Code Chapter 257, Nurse Staffing, Texas law requires that each medical center organizes a committee on nurse staffing of which 60% must be nurses who provide direct care to patients for more than 50% of their duty hours. The committee has to develop the nurse-staffing guidelines, efficient operation of nurse staffing, and an evaluation plan [20].

Vermont: On the basis of VT Statute Title 18 § 1854, medical centers in Vermont must provide public notice of information on nurse staffing [21].

Washington: On the basis of RCW § 70.41.420, Washington law requires that each medical center organize a staffing committee 50% of whom must be nurses who provide direct care to patients. The committee must develop plans about an appropriate number of nurses for each unit and shift and provide public notice of information about nurse staffing [22].

Discussion

Legal standards for optimal nurse staffing worldwide are no doubt necessary. This integrative review discerned that nursing law exists in 11 states. Three states (California, New York, and Massachusetts) suggested nurse-to-patient ratios with consideration of patients' severity of need. Specifically, California enacted a law that requires minimum nurse staffing. The tenet that every intensive care unit has to arrange nurse-to-

patient ratio of 1:1 or 1:2, depending on patients' severity of need, was accepted in Massachusetts. California has reached outstanding achievements in nursing law; since the 2004 enactment of nursing law, no medical center violated the law or closed because of the enactment of nursing law, and the number of those obtaining nurse licenses increased to more than 60,000. Medical centers in California did not report having difficulty hiring [23]. One year after the establishment of the nursing law, California reported that the nurse-license rate grew by more than 60% compared to other states [23]. The enactment of nursing law is effective in reducing mortality, increasing retention of nurse staffing [24], and maintaining the job satisfaction of nurses [25]. From 2004 to 2008, nurses reported increased job satisfaction and a decline in turnover rate. The state also reported effective problem solving related to the imbalance between supply and demand in the workforce caused by aging nurse staffing and retirement of baby boomers [25].

A common feature of nursing law in the United States is a minimum nurse-staffing plan that must include direct-care nurses, with exceptions for administrative staff and assistive personnel. Each state has to organize a staffing committee and must establish a staffing plan suited for each hospital and unit. Nursing law in Illinois, Oregon, Washington, and Texas mandates inclusion of at least 50~60% direct-care nurses on committees [16,22]. Some states, such as Vermont, mandate public notification of information about nurse staffing to ensure the public's right to know [21].

The available nursing staff in health care organizations varies, even among Organization for Economic Co-operation and Development [26] countries. For example, the proportion of nurses in nursing homes varies from the United States (53.6%), to Germany (27.1%), Japan (15.3%), and Korea (0.1%). In previous studies, a suitable workload for nurse staffing showed a positive effect for working conditions and patient outcomes [27]. The current shortage of nurses who take responsibility for public health and their excessive workload is a burgeoning issue [25]. To effectively plan nurse-staffing management, the nursing skill mix must include consideration of educational background, clinical experience, professionalism, and the competence and critical thinking of personnel. To improve public health and safety, the role of professional nurses is very important. Professional nurses (RNs) provide high-quality nursing services, distinguished from nursing substitute workers.

This study provides baseline data for creating practical resources for the establishment of optimal nurse staffing in healthcare. By using evidence of health and welfare policies, this study contributes to improving global health by visualizing improvement in nurse-staffing standards and legislation for efficient nursing services. At the national level, legislation should establish a system for supervising the quality of nursing regularly and for urgently introducing a management system. Therefore, states must enact a law about nurse staffing, taking into consideration patients' severity of need, length of stay, required treatment, diversity of healthcare-team members, preferences of medical teams, techniques, and the possibility of support staff for public health and safety.

Conclusion

This study propose future perspectives for professional nurses by reviewing 14 works of literature and nursing laws of 11 states in the United States. Currently, it is time to establish the role and vision of the professional nurse, distinguishing between the roles of RNs and nursing substitute workers worldwide. Nursing laws worldwide require minimum nurse staffing, the organization of staffing committees including essential nursing staffs in medical centers, and public notification of information on nurse staffing to improve the quality of nursing care. The nursing laws are necessary for the global citizens to improve health care for global citizens. To develop a health-management plan and meet public demand, legal systems are urgently needed that can strengthen standards for arranging nursing staffs and expand the role and function of nurses.

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