

# HOUSE BILL NO. 802

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES JOLLY (Sponsor), MEADOWS, ZWEIFEL, WALSH, LOWE (44), WRIGHT-JONES, DONNELLY, YOUNG, WILDBERGER, SALVA, VOGT, LOW (39), MEINERS, DOUGHERTY, BURNETT, JOHNSON (90), GEORGE, STORCH, CORCORAN, SCHOEMEHL, DARROUGH, CASEY, OXFORD, ROORDA, YAEGER, LAMPE, BROWN (50), KRATKY, DAUS, FRASER, SPRENG, LeVOTA, SHOEMYER, HUGHES, WAGNER, ZWEIFEL, BOWMAN, SANDERS BROOKS, RUCKER, CURLS, HOSKINS, EL-AMIN AND BLAND (Co-sponsors).

Read 1<sup>st</sup> time March 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1994L.011

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### AN ACT

To repeal sections 197.289 and 197.297, RSMo, and to enact in lieu thereof five new sections relating to patient safety, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 197.289 and 197.297, RSMo, are repealed and five new sections  
2 enacted in lieu thereof, to be known as sections 197.282, 197.288, 197.289, 197.297, and  
3 197.298, to read as follows:

**197.282. As used in sections 197.282 to 197.298, unless the context clearly requires  
2 otherwise, the following terms shall mean:**

- 3       **(1) "Acuity-based patient classification system", a standardized set of criteria based  
4 on scientific data that acts as a measurement instrument that predicts registered nursing  
5 care requirements for individual patients based on severity of patient illness, need for  
6 specialized equipment and technology, intensity of nursing interventions required, and the  
7 complexity of clinical nursing judgment needed to design, implement, and evaluate the  
8 patient's nursing care plan consistent with professional standards of care;**  
9       **(2) "Board" or "state board", the state board of nursing;**  
10       **(3) "Department", the department of health and senior services;**  
11       **(4) "Direct-care registered nurse", a licensed registered nurse who has accepted**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 **direct responsibility and accountability to carry out medical regimens, nursing, or other**  
13 **bedside care for patients;**

14 **(5) "Couplet", mother and baby;**

15 **(6) "Triage", assessment of patients to determine priority of treatment;**

16 **(7) "Ratio", the actual number of patients to be assigned to each direct-care**  
17 **registered nurse.**

**197.288. The department shall have the following powers and duties with respect**  
2 **to sections 197.282 to 197.298:**

3 **(1) To promulgate rules and regulations necessary to carry out the purposes and**  
4 **provisions of sections 197.282 to 197.298, including regulations defining terms and**  
5 **prescribing the process for establishing a standardized acuity-based patient classification**  
6 **system. Such rules shall require:**

7 **(a) That a licensed registered nurse in each hospital and ambulatory surgical center**  
8 **be responsible for the overall execution of resources to ensure sufficient registered nurse**  
9 **staffing is provided by such hospital or center; and**

10 **(b) That a full-time licensed registered nurse be designated by each hospital and**  
11 **ambulatory surgical center to be responsible for the overall quality assurance of nursing**  
12 **care as provided by the hospital or center;**

13 **(2) To assure that the provisions of sections 197.282 to 197.298 and all rules and**  
14 **regulations promulgated under sections 197.282 to 197.298 are enforced;**

15 **(3) To promulgate, within one year of the effective date of sections 197.282 to**  
16 **197.298, regulations providing for an accessible and confidential system to report any**  
17 **failure to comply with the requirements of sections 197.282 to 197.298 and public access**  
18 **to information regarding reports of inspections, results, deficiencies, and corrections under**  
19 **sections 197.282 to 197.298;**

20 **(4) To develop, within one year of the effective date of sections 197.282 to 197.298,**  
21 **a standardized acuity-based patient classification system to be utilized by all hospitals and**  
22 **ambulatory surgical centers to increase the number of direct-care registered nurses to meet**  
23 **patient needs by the nurse-to-patient ratios;**

24 **(5) To promulgate rules that as a condition of licensing, each hospital or**  
25 **ambulatory surgical center shall submit annually to the department of health and senior**  
26 **services a prospective staffing plan together with a written certification that the staffing**  
27 **plan is sufficient to provide adequate and appropriate delivery of health care services to**  
28 **patients for the ensuing year and accomplishes the following:**

29 **(a) Meets the minimum direct-care registered nurse-to-patient ratio requirements**  
30 **of sections 197.282 to 197.298;**

31           **(b) Employs the acuity-based patient classification system for addressing**  
 32 **fluctuations in patient acuity levels requiring increased registered nursing staffing levels**  
 33 **above the minimums set forth in sections 197.282 to 197.298;**

34           **(c) Provides for orientation of registered nursing staff appropriate for their clinical**  
 35 **practice area;**

36           **(d) Includes other unit or department duties such as discharges, transfers and**  
 37 **admissions, and administrative support roles that are expected to be performed by the**  
 38 **direct-care registered nurse.**

197.289. 1. All hospitals and ambulatory surgical centers shall [develop and implement  
 2 a methodology which ensures adequate nurse staffing that will meet the needs of patients. At  
 3 a minimum, there shall be on duty at all times a sufficient number of licensed registered nurses  
 4 to provide patient care requiring the judgment and skills of a licensed registered nurse and to  
 5 oversee the activities of all nursing personnel.

6           2. There shall be sufficient licensed and ancillary nursing personnel on duty on each  
 7 nursing unit to meet the needs of each patient in accordance with accepted standards of quality  
 8 patient care.]**incorporate and maintain the following minimum direct-care registered nurse-**  
 9 **to-patient ratios:**

- |    |   |            |
|----|---|------------|
| 10 | <b>(1) Intensive care unit</b>                  | <b>1:2</b> |
| 11 | <b>(a) Critically unstable</b>                  | <b>1:1</b> |
| 12 | <b>(b) ICU recovery</b>                         | <b>1:1</b> |
| 13 | <b>(2) Critical care unit</b>                   | <b>1:2</b> |
| 14 | <b>(3) Neo-natal intensive care</b>             | <b>1:2</b> |
| 15 | <b>(4) Burn unit</b>                            | <b>1:2</b> |
| 16 | <b>(5) Emergency room, provided that triage</b> |            |
| 17 | <b>registered nurses are not counted in</b>     |            |
| 18 | <b>ratios:</b>                                  |            |
| 19 | <b>(a) General</b>                              | <b>1:3</b> |
| 20 | <b>(b) Critical care</b>                        | <b>1:2</b> |
| 21 | <b>(c) Trauma</b>                               | <b>1:1</b> |
| 22 | <b>(6) Operating room/post anesthesia care</b>  |            |
| 23 | <b>unit</b>                                     |            |
| 24 | <b>(a) Under anesthesia</b>                     | <b>1:1</b> |
| 25 | <b>(b) Post anesthesia</b>                      | <b>1:2</b> |
| 26 | <b>(7) Step-down/telemetry/progressive care</b> | <b>1:4</b> |
| 27 | <b>(8) Labor and delivery</b>                   |            |
| 28 | <b>(a) Active labor</b>                         | <b>1:1</b> |

|    |   |     |
|----|---|-----|
| 29 | (b) Immediate postpartum, for two hours | 1:1 |
| 30 | (c) Postpartum, per four couplets       | 1:4 |
| 31 | (9) Intermediate care nursery           | 1:4 |
| 32 | (10) Well-baby nursery                  | 1:6 |
| 33 | (11) Pediatrics                         | 1:4 |
| 34 | (12) Psychiatry                         | 1:5 |
| 35 | (13) Medical/surgical                   | 1:5 |
| 36 | (14) Observation/outpatient             | 1:4 |
| 37 | (15) Transitional care                  | 1:5 |
| 38 | (16) Rehabilitation unit                | 1:5 |
| 39 | (17) Specialty care unit                | 1:4 |

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41 Any unit not otherwise listed above shall be considered a specialty care unit.

42 **2. The ratios required by this section shall constitute a minimum number of direct-**  
43 **care registered nurses. Additional direct-care registered nurses shall be added and the**  
44 **ratio adjusted to ensure direct-care registered nurse staffing in accordance with an**  
45 **approved acuity-based patient classification system. Nothing in this section shall be**  
46 **deemed to preclude any hospital or ambulatory surgical center from increasing the number**  
47 **of direct-care registered nurses, nor shall the requirements set forth be deemed to**  
48 **supersede or replace any requirements otherwise mandated by law, regulation, or**  
49 **collective bargaining contract so long as the hospital or center meets the minimum**  
50 **requirements outlined.**

197.297. 1. The department of health and senior services may adopt rules necessary to  
2 implement the provisions of sections 197.287 to 197.297.

3 2. No rule or portion of a rule promulgated pursuant to the authority of sections [197.287  
4 to 197.297] **197.282 to 197.298** shall become effective unless it has been promulgated pursuant  
5 to the provisions of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in  
6 section 536.010, RSMo, that is created under the authority delegated in this section shall become  
7 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
8 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
9 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
10 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently  
11 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
12 after August 28, [2000] **2005**, shall be invalid and void.

**197.298. 1. Any hospital or ambulatory surgical center that fails to design or**  
2 **adhere to a daily written nurse staffing plan in accordance with section 197.288, or with**

3 any rule or regulations promulgated hereunder, shall be subject to a fine of not more than  
4 twenty-five thousand dollars for each such violation. Each day such violation occurs or  
5 continues shall be deemed a separate offense. Such penalties shall be in addition to any  
6 other penalties that may be prescribed by law. The department shall have jurisdiction to  
7 coordinate enforcement-related activities.

8       2. The civil penalty may be assessed in any action brought on behalf of the state or  
9 on behalf of any patient or resident aggrieved under the provisions of sections 197.282 to  
10 197.298 in any court of competent jurisdiction.

11       3. Fines relative to violations under this section shall be collected and placed in the  
12 health initiatives fund established in section 191.831, RSMo.

13       4. Each hospital or ambulatory surgical center found in violation of such plan shall  
14 prominently post its violation notice within each unit in violation. Copies of the notice shall  
15 be posted by the hospital or center immediately upon receipt and maintained for sixty  
16 consecutive days or until each violation is rectified, in conspicuous places, including all  
17 places where notices to employees are customarily posted. Reasonable steps shall be taken  
18 by the hospital or center to ensure that the notices are not altered, defaced, or covered by  
19 any other material. The department shall post such violation notices on its website  
20 immediately after a finding of a violation. The notice shall remain on the department's  
21 website for sixty consecutive days or until such violation is rectified.