

Contra Costa Times (California)

December 29, 2003 Monday

Hospitals make last-ditch push against nurse-patient ratios

By Judy Silber and Andrew LaMar; CONTRA COSTA TIMES

The hospital industry has taken its frantic fight against the state's new nurse staffing law to Gov. Arnold Schwarzenegger, but the pro-business Republican has signaled he won't intervene.

The industry says the new law, set to take effect Thursday, could shake the fragile health care system by forcing closures of emergency rooms and other units.

Hospitals say they support the principle of the law — regulated staffing to ensure patient safety. However, they're bothered by its stringency. At all times, in all wards, hospitals must meet required minimum nurse staffing rules.

"There is not one ounce of flexibility in that law," said Jan Emerson, spokeswoman for the California Healthcare Association. "If a nurse has to go to the bathroom and there isn't someone to fill in for her, technically, the hospital is in violation. It's that continuous compliance that's going to be problematic."

But for the time being, the Schwarzenegger administration appears unmoved by the hospital industry's stepped-up lobbying effort. That's even though Schwarzenegger campaigned for office by promising to improve California's business climate and criticizing unions' influence over his predecessor, Gray Davis.

On this issue, the governor is siding with the California Nurses Association and the Service Employees International Union, the unions that pushed Davis to sign the staffing law.

The law is expected to increase the number of registered nurses at hospitals, requiring one nurse for every six patients on medical-surgical wards and one nurse for every four patients in emergency room departments. Nurses cannot take a break, whether for lunch or to go to the bathroom, unless they have replacements.

At the 11th hour, many East Bay hospitals say they're unsure how they'll cope with the continuous-staffing rule.

They've hired registered nurses at a frenzied pace over the past two years. But because of a severe nursing shortage, there were already never enough nurses to go around.

To fill in gaps, they're asking nurses to work extra shifts and are hiring

expensive temporary nurses. They're setting up floaters, nurses who will roam the hospital, substituting for staff members on break. They're posting advertisements to hire additional staff.

"It's challenging," said Renee Juster, director of emergency services at Mt. Diablo Medical Center. "We know we physically need competent, qualified bodies, but where do you get those bodies?"

Hospitals worry they'll be forced to make a Hobson's choice. On unexpectedly busy days, they can stay open and violate the law. Or, they can turn patients away and thereby break a federal law dictating they accept all patients who come to emergency rooms. They can force nurses to forgo lunch or 15-minute rest periods. But that will result in fines as well.

This isn't the first time hospitals have complained about the nurse staffing law. They vigorously opposed it before Davis signed it in 1999, arguing that it would put hospitals out of business. Once it passed, they said the nursing shortage made it impossible to fulfill.

Kim Belshe, Schwarzenegger's secretary for health and human services, said the regulations have been crafted carefully and she sees no reason to tinker with them.

The administration could propose adjusting the rules, if necessary, Belshe said. However, the concept of a minimum staffing requirement is not new and has long been used in intensive care units.

Also, the hospital industry didn't contact the administration with complaints until recently, she said. Belshe met for the first time with Duane Dauner, president of the California Healthcare Association, on Dec. 19.

"Unfortunately, hospitals didn't communicate the depth of their concerns until two weeks before the regulations were going to take effect," she said.

The appeal to Schwarzenegger is that continuous compliance wasn't mentioned until September. That gave hospitals little time to plan, said Susan Bumatay, chief nursing executive at Sutter Delta Medical Center in Antioch.

To meet the continuous compliance rule, Sutter Delta will need to hire 21 full-time employees at a cost of \$2.2 million, Bumatay said. The California Healthcare Foundation estimates the law will cost \$422 million in 2004, \$652 million in 2005 and \$956 million each year after 2008.

Other hospitals also are concerned. Alta Bates Summit Medical Center has asked its part-time nurses to work an extra shift every other week.

Children's Hospital Oakland said it has planned as best it can, but isn't sure how things will play out once Jan. 1 hits. The emergency room is an especially big worry, said Nancy Shibata, vice president of nursing at the hospital. It's not always predictable how many patients need care, especially

during the winter's flu season, she said.

"Normally we might assess assignments very carefully, maybe assign a fifth patient (to a nurse) to bridge the gap," Shibata said. But after the New Year, the hospital may have to transfer patients or keep them waiting, she said.

Still, Shibata is hopeful that the hospital is ready for the new law. "We've planned and hopefully put systems in place for the kids in the community who need our help," she said.

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