

TRUSTEE RESOURCE



TEXAS HEALTHCARE TRUSTEES

September 2009

A white paper for
Texas Healthcare
Trustees members.

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Trustee Resource white
papers are published
periodically by the
Texas Healthcare Trustees

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Hospital Safe Staffing Law – The Role of the Governing Board

Background

The regulation of nurse staffing has its roots in the emergence of the current nurse shortage. In the late 1990s, the Texas Hospital Association and the Texas Nurses Association recognized the shortage could be tackled only by addressing both the supply of nurses and the work environment. Through collaboration, the associations drafted proposed nurse staffing rules that were adopted in 2002 for general and special hospitals and in 2004 for freestanding psychiatric hospitals. Nine states have used the Texas nurse staffing rules as their template to pass mandated nurse staffing plan laws in lieu of mandated nurse-to-patient ratio laws. In 2009, Texas became the tenth state to pass a mandated nurse staffing plan law with the passage of Senate Bill 476, the *Hospital Safe Staffing Law*. The legislation was drafted by THA, TNA and the Texas Organization of Nurse Executives to further strengthen nursing's voice in establishing staffing levels in hospitals.

With more focus on quality and patient outcomes, Texas lawmakers and regulators have intensified their efforts to strengthen oversight of hospital practices to ensure a safe patient care environment. With the passage of the *Hospital Safe Staffing Law*, the governing board is required to have more oversight of nurse staffing.

Governing Board Policies

The governing board is responsible for governing the organization, and ensures that all policies and procedures it adopts are implemented and enforced in a safe and effective manner to comply with all applicable laws and rules. The intent of S.B. 476 was not to replace the current nurse staffing rules, effective since 2002 and 2004, but rather to build on the rules. The *Hospital Safe Staffing Law* expands the current rules by requiring the governing board to adopt, oversee implementation and enforce a nurse staffing policy that ensures an adequate number and skill mix of nurses to meet the level of patient care needed at that facility. The board's policy must require that the facility's policies and procedures encompass the following elements:

- ensure adoption, implementation and enforcement of an official nurse staffing plan that is based on the needs of each patient care unit and shift, and on evidence relating to patient care needs in order to provide an adequate number and skill mix of nurses to meet the levels of care needed;
- establish a nurse staffing committee as a standing committee of the facility;
- require that significant consideration be given to the nurse staffing plan recommended by the facility's nurse staffing committee and its evaluation of any existing plan;
- require use of the official nurse staffing plan as a component in setting the nurse staffing budget; and
- encourage nurses to provide input to the nurse staffing committee and protect them from retaliation.

continued

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The governing board's policy also includes the following requirements:

- receipt at least semiannually of a report on nurse staffing and patient outcomes, including the committee's evaluation of the effectiveness of the official nurse staffing plan and aggregate variations between the staffing plan and actual staffing; and
- the facility's compliance with rules adopted by the Texas Health and Human Services Commission or its agencies related to nurse staffing.

Finally, the governing board should ensure that the hospital has adopted, is implementing and is enforcing a policy prohibiting mandatory overtime. The policy must prohibit mandatory overtime unless one of the exceptions listed in S.B. 476 applies. It also must prohibit retaliation against a nurse for refusing to work mandatory overtime. Voluntary overtime is permitted.

Compliance with the *Hospital Safe Staffing Law* and the *Nurse Staffing Rules*

The governing board is responsible for all services furnished in its facility, whether furnished directly or under contract. The board must ensure that services are provided in a safe and effective manner that permits the hospital to comply with all applicable laws and rules. Failure to comply with the law and rules may result in the assessment of an administrative penalty against the facility by the Texas Department of State Health Services.

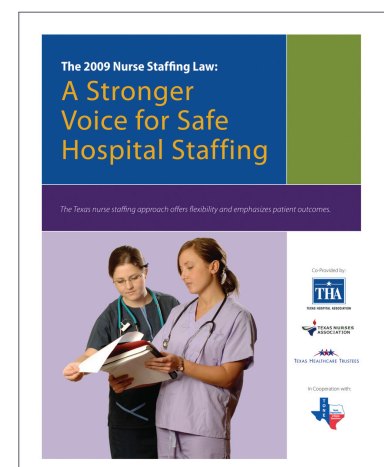
Community Leaders

Hospital governing board members may play a role in communicating with the public. Most often board members are community leaders, and as such, they are liaisons between the hospital and the community. How board members communicate with patients and their families and friends about setting nurse staffing levels will impact the public perception of the hospital. Informed board members can reinforce the good work the hospital is doing and correct misinformation or misperceptions that may exist. The *Hospital Safe Staffing Law* requires the nurse staffing committee to provide the board with at least two reports per year. With more knowledge about the process for establishing nurse staffing levels and the ongoing evaluation of the staffing plan, board members will be more empowered to assure community members that the hospital has an appropriate staffing level, and that patients' needs are being met.

Get the Resources You Need to Comply!

Understand the law and hospital trustees' role in implementing it with resources developed specifically for Texas hospitals.

The **Texas Healthcare Trustees Webinar** – "Safe Hospital Staffing: Role of the Board of Directors" – can be purchased at www.tht.org. Or order *The 2009 Nurse Staffing Law: A Stronger Voice for Safe Hospital Staffing*, a toolkit developed by the Texas Hospital Association and Texas Nurses Association in cooperation with the Texas Organization of Nurse Executives. For more information on the toolkit, visit the THA online store at www.tha.org.



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