

112TH CONGRESS  
1ST SESSION

# H. R. 876

To amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2011

Mrs. CAPPS (for herself and Mr. LATOURETTE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for patient protection by establishing safe nurse staffing levels at certain Medicare providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Registered Nurse Safe  
5 Staffing Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) There are a number of hospitals throughout  
2 the United States that do not provide adequate reg-  
3 istered nurse staffing to protect the health and safe-  
4 ty of patients.

5           (2) Research shows that patient safety in hos-  
6 pitals is directly proportionate to the number of reg-  
7 istered nurses working in the hospital. Higher staff-  
8 ing levels by experienced registered nurses are re-  
9 lated to lower rates of negative patient outcomes, in-  
10 cluding falls, infections, medication errors, and even  
11 death.

12           (3) Inadequate nurse staffing was found to be  
13 a contributing factor in 24 percent of all unantici-  
14 pated events that resulted in patient death, injury,  
15 or permanent loss of function.

16           (4) Registered nurses play a vital role in pre-  
17 venting patient care errors, for example registered  
18 nurses intercepted 86 percent of medical errors be-  
19 fore those errors affected patients.

20           (5) As a payer for inpatient and outpatient hos-  
21 pital services for individuals entitled to benefits  
22 under the Medicare program, the Federal Govern-  
23 ment has a compelling interest in promoting the  
24 safety of such individuals by requiring any hospital

1 participating in that program to establish minimum  
2 safe staffing levels for registered nurses.

3 (6) Adequate registered nurse staffing levels are  
4 necessary for the delivery of safe, quality care. Inad-  
5 adequate registered nurse staffing levels contribute to  
6 nurse burnout and exacerbate the current nursing  
7 shortage in the United States.

8 (7) Nearly 25 percent of registered nurses indi-  
9 cate that they are considering leaving direct patient  
10 care nursing due to inadequate nurse staffing, and  
11 nearly 60 percent of registered nurses report they  
12 know of another nurse who left direct care nursing  
13 because of concerns about inadequate nurse staffing.

14 (8) The cost to a hospital to replace a direct  
15 patient care registered nurse is more than 101 per-  
16 cent, and as much as 106 percent, of a registered  
17 nurse's annual salary.

18 (9) As a result of insufficient staff, registered  
19 nurses are being required to perform professional  
20 services under conditions that do not support quality  
21 health care or a healthful work environment for reg-  
22 istered nurses.

1 **SEC. 3. ESTABLISHMENT OF SAFE NURSE STAFFING LEV-**  
2 **ELS BY MEDICARE PARTICIPATING HOS-**  
3 **PITALS.**

4 (a) REQUIREMENT OF MEDICARE PROVIDER AGREE-  
5 MENT.—Section 1866(a)(1) of the Social Security Act (42  
6 U.S.C. 1395cc(a)(1)) is amended—

7 (1) in subparagraph (V), by striking “and” at  
8 the end;

9 (2) in subparagraph (W), as added by section  
10 3005 of the Patient Protection and Affordable Care  
11 Act (Public Law 111–148)—

12 (A) by moving such subparagraph 2 ems to  
13 the left; and

14 (B) by striking the period at the end;

15 (3) in subparagraph (W), as added by section  
16 6406(b) of the Patient Protection and Affordable  
17 Care Act (Public Law 111–148)—

18 (A) by moving such subparagraph 2 ems to  
19 the left;

20 (B) by redesignating such subparagraph as  
21 subparagraph (X); and

22 (C) by striking the period at the end and  
23 inserting “, and”; and

24 (4) by inserting after subparagraph (X), as re-  
25 designating by paragraph (3)(B), the following new  
26 subparagraph:

1 “(Y) in the case of a hospital (as defined in sec-  
2 tion 1861(e)), to meet the requirements of section  
3 1899B.”.

4 (b) REQUIREMENTS.—Title XVIII of the Social Secu-  
5 rity Act (42 U.S.C. 1395 et seq.), as amended by sections  
6 3022 and 3403 of the Patient Protection and Affordable  
7 Care Act (Public Law 111–148), is amended by inserting  
8 after section 1899A the following new section:

9 “NURSE STAFFING REQUIREMENTS FOR MEDICARE

10 PARTICIPATING HOSPITALS

11 “SEC. 1899B. (a) IMPLEMENTATION OF NURSE  
12 STAFFING PLAN.—

13 “(1) IN GENERAL.—Each participating hospital  
14 shall implement a hospital-wide staffing plan for  
15 nursing services furnished in the hospital.

16 “(2) REQUIREMENT FOR DEVELOPMENT OF  
17 STAFFING PLAN BY HOSPITAL NURSE STAFFING  
18 COMMITTEE.—The hospital-wide staffing plan for  
19 nursing services implemented by a hospital pursuant  
20 to paragraph (1)—

21 “(A) shall be developed by the hospital  
22 nurse staffing committee established under sub-  
23 section (b); and

24 “(B) shall require that an appropriate  
25 number of registered nurses provide direct pa-

1           tient care in each unit and on each shift of the  
2           hospital to ensure staffing levels that—

3                   “(i) address the unique characteristics  
4                   of the patients and hospital units; and

5                   “(ii) result in the delivery of safe,  
6                   quality patient care, consistent with the re-  
7                   quirements under subsection (c).

8           “(b) HOSPITAL NURSE STAFFING COMMITTEE.—

9                   “(1) ESTABLISHMENT.—Each participating  
10           hospital shall establish a hospital nurse staffing  
11           committee (hereinafter in this section referred to as  
12           the ‘Committee’).

13                   “(2) COMPOSITION.—A Committee established  
14           pursuant to this subsection shall be composed of  
15           members as follows:

16                   “(A) MINIMUM 55 PERCENT NURSE PAR-  
17           TICIPATION.—Not less than 55 percent of the  
18           members of the Committee shall be registered  
19           nurses who provide direct patient care but who  
20           are neither hospital nurse managers nor part of  
21           the hospital administration staff.

22                   “(B) INCLUSION OF HOSPITAL NURSE  
23           MANAGERS.—The Committee shall include  
24           members who are hospital nurse managers.

1           “(C) INCLUSION OF NURSES FROM SPE-  
2           CIALTY UNITS.—The members of the Com-  
3           mittee shall include at least 1 registered nurse  
4           who provides direct care from each nurse spe-  
5           cialty or unit of the hospital (each such spe-  
6           cialty or unit as determined by the hospital).

7           “(D) OTHER HOSPITAL PERSONNEL.—The  
8           Committee shall include such other personnel of  
9           the hospital as the hospital determines to be ap-  
10          propriate.

11          “(3) DUTIES.—

12                 “(A) DEVELOPMENT OF STAFFING  
13                 PLAN.—The Committee shall develop a hospital-  
14                 wide staffing plan for nursing services furnished  
15                 in the hospital consistent with the requirements  
16                 under subsection (c).

17                 “(B) REVIEW AND MODIFICATION OF  
18                 STAFFING PLAN.—The Committee shall—

19                         “(i) conduct regular, ongoing moni-  
20                         toring of the implementation of the hos-  
21                         pital-wide staffing plan for nursing services  
22                         furnished in the hospital;

23                         “(ii) carry out evaluations of the hos-  
24                         pital-wide staffing plan for nursing services  
25                         at least annually; and

1           “(iii) make such modifications to the  
2           hospital-wide staffing plan for nursing  
3           services as may be appropriate.

4           “(C) ADDITIONAL DUTIES.—The Com-  
5           mittee shall—

6                   “(i) develop policies and procedures  
7                   for overtime requirements of registered  
8                   nurses providing direct patient care and  
9                   for appropriate time and manner of relief  
10                  of such registered nurses during routine  
11                  absences; and

12                   “(ii) carry out such additional duties  
13                  as the Committee determines to be appro-  
14                  priate.

15          “(c) STAFFING PLAN REQUIREMENTS.—

16                  “(1) PLAN REQUIREMENTS.—Subject to para-  
17                  graph (2), a hospital-wide staffing plan for nursing  
18                  services developed and implemented under this sec-  
19                  tion shall—

20                   “(A) be based upon input from the reg-  
21                   istered nurse staff of the hospital who provide  
22                   direct patient care or their exclusive representa-  
23                   tives, as well as the chief nurse executive;

24                   “(B) be based upon the number of patients  
25                  and the level and variability of intensity of care



1 to be provided to those patients, with appro-  
2 priate consideration given to admissions, dis-  
3 charges, and transfers during each shift;

4 “(C) take into account contextual issues  
5 affecting nurse staffing and the delivery of care,  
6 including architecture and geography of the en-  
7 vironment and available technology;

8 “(D) take into account the level of edu-  
9 cation, training, and experience of those reg-  
10 istered nurses providing direct patient care;

11 “(E) take into account the staffing levels  
12 and services provided by other health care per-  
13 sonnel associated with nursing care, such as  
14 certified nurse assistants, licensed vocational  
15 nurses, licensed psychiatric technicians, nursing  
16 assistants, aides, and orderlies;

17 “(F) take into account staffing levels rec-  
18 ommended by specialty nursing organizations;

19 “(G) establish adjustable minimum num-  
20 bers of registered nurses based upon an assess-  
21 ment by registered nurses of the level and vari-  
22 ability of intensity of care required by patients  
23 under existing conditions;

1           “(H) take into account unit and facility  
2 level staffing, quality and patient outcome data,  
3 and national comparisons, as available;

4           “(I) ensure that a registered nurse shall  
5 not be assigned to work in a particular unit of  
6 the hospital without first having established the  
7 ability to provide professional care in such unit;  
8 and

9           “(J) provide for exemptions from some or  
10 all requirements of the hospital-wide staffing  
11 plan for nursing services during a declared  
12 state of emergency (as defined in subsection  
13 (l)(1)) if the hospital is requested or expected  
14 to provide an exceptional level of emergency or  
15 other medical services.

16           “(2) LIMITATION.—A staffing system developed  
17 and implemented under this section—

18           “(A) shall not preempt any registered-  
19 nurse staffing levels established under State law  
20 or regulation; and

21           “(B) may not utilize any minimum number  
22 of registered nurses established under para-  
23 graph (1)(G) as an upper limit on the nurse  
24 staffing of the hospital to which such minimum  
25 number applies.

1       “(d) REPORTING AND RELEASE TO PUBLIC OF CER-  
2 TAIN STAFFING INFORMATION.—

3               “(1) REQUIREMENTS FOR HOSPITALS.—Each  
4 participating hospital shall—

5                       “(A) post daily for each shift, in a clearly  
6 visible place, a document that specifies in a uni-  
7 form manner (as prescribed by the Secretary)  
8 the current number of licensed and unlicensed  
9 nursing staff directly responsible for patient  
10 care in each unit of the hospital, identifying  
11 specifically the number of registered nurses;

12                       “(B) upon request, make available to the  
13 public—

14                               “(i) the nursing staff information de-  
15 scribed in subparagraph (A);

16                               “(ii) a detailed written description of  
17 the hospital-wide staffing plan imple-  
18 mented by the hospital pursuant to sub-  
19 section (a); and

20                               “(iii) not later than 90 days after the  
21 date on which an evaluation is carried out  
22 by the Committee under subsection  
23 (b)(3)(B)(ii), a copy of such evaluation;  
24 and

1           “(C) not less frequently than quarterly,  
2           submit to the Secretary in a uniform manner  
3           (as prescribed by the Secretary) the nursing  
4           staff information described in subparagraph (A)  
5           through electronic data submission.

6           “(2) SECRETARIAL RESPONSIBILITIES.—The  
7           Secretary shall—

8           “(A) make the information submitted pur-  
9           suant to paragraph (1)(C) publicly available in  
10          a comprehensible format (as described in sub-  
11          section (e)(2)(D)(ii)), including by publication  
12          on the Hospital Compare Internet Web site of  
13          the Department of Health and Human Services;  
14          and

15          “(B) provide for the auditing of such infor-  
16          mation for accuracy as a part of the process of  
17          determining whether the participating hospital  
18          is in compliance with the conditions of its  
19          agreement with the Secretary under section  
20          1866, including under subsection (a)(1)(Y) of  
21          such section.

22          “(e) RECORDKEEPING; COLLECTION AND REPORT-  
23          ING OF QUALITY DATA; EVALUATION.—

24          “(1) RECORDKEEPING.—Each participating  
25          hospital shall maintain for a period of at least 3

1 years (or, if longer, until the conclusion of any pend-  
2 ing enforcement activities) such records as the Sec-  
3 retary deems necessary to determine whether the  
4 hospital has implemented a hospital-wide staffing  
5 plan for nursing services pursuant to subsection (a).

6 “(2) COLLECTION AND REPORTING OF QUALITY  
7 DATA ON NURSING SERVICES.—

8 “(A) IN GENERAL.—The Secretary shall  
9 require the collection, aggregation, mainte-  
10 nance, and reporting of quality data relating to  
11 nursing services furnished by each participating  
12 hospital.

13 “(B) USE OF ENDORSED MEASURES.—In  
14 carrying out this paragraph, the Secretary shall  
15 use only quality measures for nursing-sensitive  
16 care that are endorsed by the consensus-based  
17 entity with a contract under section 1890(a).

18 “(C) USE OF QUALIFIED THIRD-PARTY EN-  
19 TITIES FOR COLLECTION AND SUBMISSION OF  
20 DATA.—

21 “(i) IN GENERAL.—A participating  
22 hospital may enter into agreements with  
23 third-party entities that have demonstrated  
24 expertise in the collection and submission  
25 of quality data on nursing services to col-

1 lect, aggregate, maintain, and report the  
2 quality data of the hospital pursuant to  
3 subparagraph (A).

4 “(ii) CONSTRUCTION.—Nothing in  
5 clause (i) shall be construed to excuse or  
6 exempt a participating hospital that has  
7 entered into an agreement described in  
8 such clause from compliance with require-  
9 ments for quality data collection, aggrega-  
10 tion, maintenance, and reporting imposed  
11 under this paragraph.

12 “(D) REPORTING OF QUALITY DATA.—

13 “(i) PUBLICATION ON HOSPITAL COM-  
14 PARE WEB SITE.—Subject to the suc-  
15 ceeding provisions of this subparagraph,  
16 the Secretary shall make the data sub-  
17 mitted pursuant to subparagraph (A) pub-  
18 licly available, including by publication on  
19 the Hospital Compare Internet Web site of  
20 the Department of Health and Human  
21 Services.

22 “(ii) COMPREHENSIBLE FORMAT.—  
23 Data made available to the public under  
24 clause (i) shall be presented in a clearly  
25 understandable format that permits con-

1 consumers of hospital services to make mean-  
2 ingful comparisons among hospitals, in-  
3 cluding concise explanations in plain  
4 English of how to interpret the data, of the  
5 difference in types of nursing staff, of the  
6 relationship between nurse staffing levels  
7 and quality of care, and of how nurse  
8 staffing may vary based on patient case  
9 mix.

10 “(iii) OPPORTUNITY TO CORRECT ER-  
11 RORS.—The Secretary shall establish a  
12 process under which participating hospitals  
13 may review data submitted to the Sec-  
14 retary pursuant to subparagraph (A) to  
15 correct errors, if any, contained in that  
16 data submission before making the data  
17 available to the public under clause (i).

18 “(3) EVALUATION OF DATA.—The Secretary  
19 shall provide for the analysis of quality data col-  
20 lected from participating hospitals under paragraph  
21 (2) in order to evaluate the effect of hospital-wide  
22 staffing plans for nursing services implemented pur-  
23 suant to subsection (a) on—

24 “(A) patient outcomes that are nursing  
25 sensitive (such as pressure ulcers, fall occur-

1           rence, falls resulting in injury, length of stay,  
2           and central line catheter infections); and

3           “(B) nursing workforce safety and reten-  
4           tion (including work-related injury, staff skill  
5           mix, nursing care hours per patient day, va-  
6           cancy and voluntary turnover rates, overtime  
7           rates, use of temporary agency personnel, and  
8           nurse satisfaction).

9           “(f) REFUSAL OF ASSIGNMENT.—A nurse may refuse  
10          to accept an assignment as a nurse in a participating hos-  
11          pital, or in a unit of a participating hospital, if—

12           “(1) the assignment is in violation of the hos-  
13          pital-wide staffing plan for nursing services imple-  
14          mented pursuant to subsection (a); or

15           “(2) the nurse is not prepared by education,  
16          training, or experience to fulfill the assignment with-  
17          out compromising the safety of any patient or jeop-  
18          ardizing the license of the nurse.

19          “(g) ENFORCEMENT.—

20           “(1) RESPONSIBILITY.—The Secretary shall en-  
21          force the requirements and prohibitions of this sec-  
22          tion in accordance with the succeeding provisions of  
23          this subsection.



1           “(2) PROCEDURES FOR RECEIVING AND INVESTIGATING COMPLAINTS.—The Secretary shall establish procedures under which—

2                           “(A) any person may file a complaint that  
3                           a participating hospital has violated a require-  
4                           ment of or a prohibition under this section; and

5                           “(B) such complaints are investigated by  
6                           the Secretary.

7           “(3) REMEDIES.—Except as provided in para-  
8           graph (5), if the Secretary determines that a partici-  
9           pating hospital has violated a requirement of this  
10          section, the Secretary—

11                           “(A) shall require the hospital to establish  
12                           a corrective action plan to prevent the recur-  
13                           rence of such violation; and

14                           “(B) may impose civil money penalties  
15                           under paragraph (4).

16          “(4) CIVIL MONEY PENALTIES.—

17                           “(A) IN GENERAL.—In addition to any  
18                           other penalties prescribed by law, the Secretary  
19                           may impose a civil money penalty of not more  
20                           than \$10,000 for each knowing violation of a  
21                           requirement of this section, except that the Sec-  
22                           retary shall impose a civil money penalty of  
23                           more than \$10,000 for each such violation in  
24                             
25

1 the case of a participating hospital that the  
2 Secretary determines has a pattern or practice  
3 of such violations (with the amount of such ad-  
4 ditional penalties being determined in accord-  
5 ance with a schedule or methodology specified  
6 in regulations).

7 “(B) PROCEDURES.—The provisions of  
8 section 1128A (other than subsections (a) and  
9 (b)) shall apply to a civil money penalty under  
10 this paragraph in the same manner as such  
11 provisions apply to a penalty or proceeding  
12 under section 1128A.

13 “(C) PUBLIC NOTICE OF VIOLATIONS.—

14 “(i) INTERNET WEB SITE.—The Sec-  
15 retary shall publish on an appropriate  
16 Internet Web site of the Department of  
17 Health and Human Services the names of  
18 participating hospitals on which civil  
19 money penalties have been imposed under  
20 this section, the violation for which the  
21 penalty was imposed, and such additional  
22 information as the Secretary determines  
23 appropriate.

24 “(ii) CHANGE OF OWNERSHIP.—With  
25 respect to a participating hospital that had

1 a change in ownership, as determined by  
2 the Secretary, penalties imposed on the  
3 hospital while under previous ownership  
4 shall no longer be published by the Sec-  
5 retary of such Internet Web site after the  
6 1-year period beginning on the date of the  
7 change in ownership.

8 “(5) PENALTY FOR FAILURE TO COLLECT AND  
9 REPORT QUALITY DATA ON NURSING SERVICES.—

10 “(A) IN GENERAL.—In the case of a par-  
11 ticipating hospital that fails to comply with re-  
12 quirements under subsection (e)(2) to collect,  
13 aggregate, maintain, and report quality data re-  
14 lating to nursing services furnished by the hos-  
15 pital, instead of the remedies described in para-  
16 graph (3), the provisions of subparagraph (B)  
17 shall apply with respect to each such failure of  
18 the participating hospital.

19 “(B) PENALTY.—In the case of a failure  
20 by a participating hospital to comply with the  
21 requirements under subsection (e)(2) for a year,  
22 each such failure shall be deemed to be a failure  
23 to submit data required under section  
24 1833(t)(17)(A), section 1886(b)(3)(B)(viii),  
25 section 1886(j)(7)(A), or section

1           1886(m)(5)(A), as the case may be, with re-  
2           spect to the participating hospital involved for  
3           that year.

4           “(h) WHISTLEBLOWER PROTECTIONS.—

5           “(1) PROHIBITION OF DISCRIMINATION AND  
6           RETALIATION.—A participating hospital shall not  
7           discriminate or retaliate in any manner against any  
8           patient or employee of the hospital because that pa-  
9           tient or employee, or any other person, has pre-  
10          sented a grievance or complaint, or has initiated or  
11          cooperated in any investigation or proceeding of any  
12          kind, relating to—

13                 “(A) the hospital-wide staffing plan for  
14                 nursing services developed and implemented  
15                 under this section; or

16                 “(B) any right, other requirement or pro-  
17                 hibition under this section, including a refusal  
18                 to accept an assignment described in subsection  
19                 (f).

20          “(2) RELIEF FOR PREVAILING EMPLOYEES.—

21          An employee of a participating hospital who has  
22          been discriminated or retaliated against in employ-  
23          ment in violation of this subsection may initiate judi-  
24          cial action in a United States district court and shall  
25          be entitled to reinstatement, reimbursement for lost

1 wages, and work benefits caused by the unlawful  
2 acts of the employing hospital. Prevailing employees  
3 are entitled to reasonable attorney’s fees and costs  
4 associated with pursuing the case.

5 “(3) RELIEF FOR PREVAILING PATIENTS.—A  
6 patient who has been discriminated or retaliated  
7 against in violation of this subsection may initiate  
8 judicial action in a United States district court. A  
9 prevailing patient shall be entitled to liquidated  
10 damages of \$5,000 for a violation of this statute in  
11 addition to any other damages under other applica-  
12 ble statutes, regulations, or common law. Prevailing  
13 patients are entitled to reasonable attorney’s fees  
14 and costs associated with pursuing the case.

15 “(4) LIMITATION ON ACTIONS.—No action may  
16 be brought under paragraph (2) or (3) more than 2  
17 years after the discrimination or retaliation with re-  
18 spect to which the action is brought.

19 “(5) TREATMENT OF ADVERSE EMPLOYMENT  
20 ACTIONS.—For purposes of this subsection—

21 “(A) an adverse employment action shall  
22 be treated as discrimination or retaliation; and

23 “(B) the term ‘adverse employment action’  
24 includes—

1           “(i) the failure to promote an indi-  
2           vidual or provide any other employment-re-  
3           lated benefit for which the individual would  
4           otherwise be eligible;

5           “(ii) an adverse evaluation or decision  
6           made in relation to accreditation, certifi-  
7           cation, credentialing, or licensing of the in-  
8           dividual; and

9           “(iii) a personnel action that is ad-  
10          verse to the individual concerned.

11         “(i) RELATIONSHIP TO STATE LAWS.—Nothing in  
12 this section shall be construed as exempting or relieving  
13 any person from any liability, duty, penalty, or punish-  
14 ment provided by the law of any State or political subdivi-  
15 sion of a State, other than any such law which purports  
16 to require or permit any action prohibited under this title.

17         “(j) RELATIONSHIP TO CONDUCT PROHIBITED  
18 UNDER THE NATIONAL LABOR RELATIONS ACT OR  
19 OTHER COLLECTIVE BARGAINING LAWS.—Nothing in  
20 this section shall be construed as—

21           “(1) permitting conduct prohibited under the  
22           National Labor Relations Act or under any other  
23           Federal, State, or local collective bargaining law; or

1           “(2) preempting, limiting, or modifying a collec-  
2           tive bargaining agreement entered into by a partici-  
3           pating hospital.

4           “(k) REGULATIONS.—

5           “(1) IN GENERAL.—The Secretary shall pro-  
6           mulgate such regulations as are appropriate and  
7           necessary to implement this section.

8           “(2) IMPLEMENTATION.—

9           “(A) IN GENERAL.—Except as provided in  
10           subparagraph (B), as soon as practicable but  
11           not later than 2 years after the date of the en-  
12           actment of this section, a participating hospital  
13           shall have implemented a hospital-wide staffing  
14           plan for nursing services under this section.

15           “(B) SPECIAL RULE FOR RURAL HOS-  
16           PITALS.—In the case of a participating hospital  
17           located in a rural area (as defined in section  
18           1886(d)(2)(D)), such participating hospital  
19           shall have implemented a hospital-wide staffing  
20           plan for nursing services under this section as  
21           soon as practicable but not later than 4 years  
22           after the date of the enactment of this section.

23           “(l) DEFINITIONS.—In this section:

24           “(1) DECLARED STATE OF EMERGENCY.—The  
25           term ‘declared state of emergency’ means an offi-

1 cially designated state of emergency that has been  
2 declared by the Federal Government or the head of  
3 the appropriate State or local governmental agency  
4 having authority to declare that the State, county,  
5 municipality, or locality is in a state of emergency,  
6 but does not include a state of emergency that re-  
7 sults from a labor dispute in the health care indus-  
8 try or consistent understaffing.

9 “(2) PARTICIPATING HOSPITAL.—The term  
10 ‘participating hospital’ means a hospital (as defined  
11 in section 1861(e)) that has entered into a provider  
12 agreement under section 1866.

13 “(3) PERSON.—The term ‘person’ means one or  
14 more individuals, associations, corporations, unincor-  
15 porated organizations, or labor unions.

16 “(4) REGISTERED NURSE.—The term ‘reg-  
17 istered nurse’ means an individual who has been  
18 granted a license to practice as a registered nurse in  
19 at least 1 State.

20 “(5) SHIFT.—The term ‘shift’ means a sched-  
21 uled set of hours or duty period to be worked at a  
22 participating hospital.

23 “(6) UNIT.—The term ‘unit’ means, with re-  
24 spect to a hospital, an organizational department or  
25 separate geographic area of a hospital, including a



1 burn unit, a labor and delivery room, a post-anes-  
2 thesia service area, an emergency department, an  
3 operating room, a pediatric unit, a stepdown or in-  
4 termediate care unit, a specialty care unit, a telem-  
5 etry unit, a general medical care unit, a subacute  
6 care unit, and a transitional inpatient care unit.”.

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