

AB 1102 (RODRIGUEZ): HEALTH FACILITIES: WHISTLEBLOWER PROTECTIONS

POSITION: The Chamber's Healthcare Committee voted to OPPOSE 387 on April 12, 2017.

STATUS: AB 1102 was introduced by Assemblymember Freddie Rodriguez on February 17, 2017. It passed out of the Assembly Committee on Health and was referred to the Committee on Judiciary on March 29, 2017.

AT-A-GLANCE

Prohibits a health facility from discriminating or retaliating against a staff member who has refused an assignment or change in assignment if they cite nurse-to-patient ratios as their motivation for doing so.

SUMMARY

AB 1102 prohibits a health facility from discriminating or retaliating in any way against a staff member who refuses a change in assignment due to the belief that their reassignment would bring the institution out of compliance with the nurse-to-patient ratio. This ratio was established in 2004, and previously hospitals were required to establish staffing units by regulatory directive.

ANALYSIS

California has long held requirements for staff to patient ratios at hospitals. Originally these requirements were mandated by regulation, but they were codified via legislation in 2004. The California Department of Public Health Licensing and Certification (DPH L&C) is responsible for the oversight of health facilities and is the agency responsible for inspecting and responding to complaints. At this time, DPH L&C has a backlog of complaint investigations and is unable to inspect each hospital every three years as required by law. AB 1102 could result in an increase of complaints, and consequent inspections, thereby exacerbating the backlog without addressing quality of care concerns that they were established to protect.

Arguments in support of the legislation concede that although nurse staffing ratios have been law over ten years, nurses are placed in the difficult positions of accepting "unsafe patient assignments" meaning assignments that do not meet staffing ratios. They further concede that nurses are able to file complaint forms with DPH in those instances but maintain the belief that hospitals violate the staffing ratios. The bill sponsor states that nurses who refuse transfers may be retaliated against as whistleblowers, thereby necessitating AB 1102.

Opposition to the bill cites concerns that it places the accountability for maintaining staff ratios on individual employees, and allows staff to refuse directives because of their own understanding of staff ratios and/or hypothesis about staffing in general. There is further concern that the confusion by some of the unclear language referencing non-licensed staff could result in confusion during work hours that could place patients at risk as hospitals have to focus increased time, energy and resources on administrative rules rather than supporting their employees as they provide care delivery.

SUPPORT

- SEIU- California (sponsor)

OPPOSITION

- California Nurses Association



Policy Brief

April 2017