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Healthcare Alert

MARCH 6, 2023

NYS Department of Health proposes clinical staffing regulations for general hospitals

By Justin Pfeiffer, Stephanie Caffera, and Laurie Cohen

Regulations would require a minimum of one RN for every two patients that require intensive or critical care.



What's the Impact

- / Clinical staffing plans would be completed using a General Hospital Clinical Staffing Plan Template provided by NYSDOH and submitted to NYSDOH electronically.
- / Comments on the proposed regulations can be submitted to NYSDOH through May 1, 2023.

The New York State Department of Health (NYSDOH) has [formally proposed clinical staffing regulations for general hospitals](#), following their presentation at the February 2023 meeting of the Public Health and Health Planning Council. These proposed regulations implement amendments to Public Health Law § 2805-t that were enacted back in 2021. [As we reported at the time](#), the 2021 statutory amendments already required general hospitals to:

- / Establish a clinical staffing committee by January 1, 2022,
- / Submit a clinical staffing plan developed by the committee to NYSDOH by July 1, 2022, and
- / Implement the adopted plan on January 1, 2023.

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The recently proposed regulations would add a few new requirements. Most significantly, the regulations would require hospitals to assign a minimum of one registered nurse to care for every two patients whom an attending practitioner determines require intensive or critical care. The number of patients requiring intensive or critical care would be based on an ongoing assessment of patient acuity and would not be limited to the patients located in the ICU or CCU.

Additionally, hospitals would be required to complete their clinical staffing plans using a General Hospital Clinical Staffing Plan Template provided by NYSDOH and would need to file the plans using an electronic reporting system NYSDOH would designate—likely, its Health Commerce System. Hospitals would continue to file their clinical staffing plans annually, by July 1st of each year, as expected. (There appears to be a disconnect between the proposed regulations, which state a July 1st deadline, and other documents filed with the regulations, which state a July 31st annual deadline. This will likely be clarified when the regulations are adopted.)

Finally, any complaints regarding clinical staffing must be made first to a hospital's clinical staffing committee. The proposed regulations state that if a complaint is not resolved within 90 days of submission, the complaint may be submitted to NYSDOH.

To implement the proposed regulations, NYSDOH states that it would anticipate performing 75 additional on-site hospital surveys per year, or about one survey per hospital every three years. NYSDOH also states that it would require additional staff to perform the surveys, operate a Hospital Complaint Intake program, and meet other operational requirements.

Together, these statements suggest that NYSDOH would not be inclined to review a complaint regarding clinical staffing unless the complainant first attempts to resolve the issue with the hospital's clinical staffing committee. However, if a complaint is not resolved within 90 days following submission to the clinical staffing committee, submitting the complaint to NYSDOH may trigger a survey.

The proposed regulations appear in the [March 1, 2023, edition of the New York State Register](#), and comments can be submitted to NYSDOH through May 1, 2023, using the contact information available [here](#). After the public comment period expires, NYSDOH will assess the comments and, thereafter, present the regulations to PHHPC for a vote. PHHPC must vote to approve the proposed regulations before they can be formally adopted.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

[Justin D. Pfeiffer](#)

518.427.2742

jpfeiffer@nixonpeabody.com

[Stephanie M. Caffera](#)

585.263.1066

scaffera@nixonpeabody.com

Laurie T. Cohen

518.427.2708

lauriecohen@nixonpeabody.com
