The California Experience Following Implementation of Minimum Ratios in 1999

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This presentation will...

- Describe the process that resulted after the ratio legislation passed
- Examine the experience of the first year of implementation
- Suggest directions for future research, regulation, and legislation
AB 394 was signed in October 1999

- Department of Health Services (CDHS) required to establish minimum licensed-nurse-to-patient ratios for each type of hospital unit
  - RNs and LVNs included

- Unlicensed personnel are prohibited from performing certain tasks
Stakeholders submitted suggestions to CDHS

- California Healthcare Association (hospital group) suggested 1 nurse to 10 patients in medical-surgical
- Service Employees International Union suggested 1 nurse to 4 patients in medical-surgical
- California Nurses Association suggested 1 RN to 3 patients in medical-surgical
After much work by CDHS...

- Proposed ratios were announced in January 2002
  - Medical-surgical ratio begins at 1:6
  - Medical-surgical ratio transitions to 1:5 after one year

- Governor Davis announced a $60 million initiative to expand the supply of nurses on the same day
Predicted per-hospital cost of minimum ratio proposals

<table>
<thead>
<tr>
<th>Source of data</th>
<th>Cost of initial ratios</th>
<th>Cost per discharge</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSHPD data</td>
<td>$57,540,000</td>
<td>$19.18</td>
</tr>
<tr>
<td>DHS survey data</td>
<td>$266,729,000</td>
<td>$88.90</td>
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</tbody>
</table>

There were approximately 3 million general acute-care discharges in 2001. The estimates from OSHPD data are a “lower bound”.

Source: Spetz’s calculations from OSHPD data and from Kravitz, Sauve, et al.
Hospital responses to ratio legislation

- Most hospitals followed California Hospital Association opposition
- Kaiser Foundation Hospitals established agreement with SEIU that embraced SEIU proposed ratios
- Some hospitals already were staffing better than the final minimum ratios
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The legal battle

- CHA filed lawsuit on December 30, 2003
  - Claim: requiring ratios “at all times” was unreasonable due to staff breaks
  - CDHS argued that difficulty meeting this regulation was not reason to eliminate it
  - CHA lost this suit
The legal battle

- Governor S. issued emergency order to delay 1:5 medical-surgical ratio on November 4, 2004
  - California Nurses Association sued against the emergency order
  - CDHS argued that difficulty meeting this regulation was reason to eliminate it
  - CDHS lost this suit
Hospitals may request waivers

- In first quarter:
  - 60 waiver requests
    - 23 approved
    - 29 denied
    - 8 unnecessary
  - Nearly all rural hospitals that requested waivers received them
Enforcement mechanisms are weak

- CDHS cannot fine hospitals
  - Violations require submission of plan for remedy

- Medicare and Medicaid require compliance with state laws and regulations
  - These programs can audit records
  - Payments can be revoked retroactively

- California’s malpractice cap ($250,000) does not apply in cases of negligence
  - Willfully violating regulations constitutes negligence
Are hospitals meeting the regulations?

- First quarter of ratios...
  - 49 complaints
    - 2 citations, requiring action plan for remedy
  - 68 self-reported violations

- Los Angeles Times reported that 15 of 28 hospitals inspected January-October 2004 did not meet ratios
Reduced access to care due to ratios?

- No reports of permanent bed closures thus far in California

- Statewide, one county may have had a permanent increase in emergency room diversions
  - An emergency room closed recently in that county
What about hospital closures?

- In January 2004, Santa Teresita Hospital announced closure
  - They claimed the ratios caused the closure
- Former employees said the hospital was meeting the ratios without difficulty
- Net income in 2002: -$4,758,911
  - Equity in 2002: -$9,137,154
Substitution of staff

- Stanford issued layoff notices to 113 nursing aides in advance of the ratios
- Reduction of EMT staff in emergency rooms
More power to the nurses

- Some CNOs are glad to have upper management forced to provide more funding for nurse staffing
- Nurses can close a unit to admissions if additional staff are not available
What about the patients?
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Has staffing increased?

• Many hospitals were staffing at the minimum level before January 1, 2004
  – Are hospitals still using their patient classification systems?
  – Are support staff positions being eliminated?
  – Are staff simply moving shift-to-shift?

• Is staffing rising at the cost of access to care?
Are nurses changing jobs in ways that affect the quality distribution?

- School class-size reduction is analogous
  - Implemented in 1996-1997

- Demand for teachers rose

- Teachers moved from poor, difficult schools to wealthy schools

- Students in advantaged schools did better

- Students in disadvantaged schools did worse
Will there be improvements in quality of care?

- None of the studies of staffing and quality identify the “right” ratio
  - CDHS may have targeted too high or low

- Organizational culture is known to affect quality of care
  - Are ratios changing culture for the better?

- Research on the effects won’t be available for two or more years
What can we recommend to other states?

- It’s too early to weigh benefits and costs of ratios because benefits cannot be measured yet.

- Ratios provide a blunt instrument to change staffing.
  - Other approaches might have advantages.
  - Compliance with flexible regulations is a problem.

- The supply of nurses must be increased.
  - Even without ratios, there is a long-term shortage.
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