

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Report Card Code
- 2) Code Citation: 77 Ill. Adm. Code 255
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
255.100	Amendment
255.110	Amendment
255.250	Amendment
255.260	Repealed
- 4) Statutory Authority: Hospital Report Card Act [210 ILCS 86]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to eliminate hospital Surgical Care Improvement Project (SCIP) reporting to the Department. The SCIP measures are part of the Centers for Medicare and Medicaid (CMMS) Medicare Inpatient Prospective Payment System. The data for these measures is concurrently submitted to CMMS and accessible for download. The Department's no-cost vendor, CompData, is unable to process this data because of the resources needed to update the code associated with ongoing changing definitions and requirements. In addition, CMMS is planning phased retirement of these measures beginning in January 2015, as most hospitals are successfully meeting target quality goals of 95% or better. Language in the rule will be updated and the Compliance Section repealed as hospitals have met the initial reporting phase in requirements.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking:
<https://www.federalregister.gov/articles/2014/08/22/2014-18545/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the#t-81>
http://www.jointcommission.org/core_measure_sets.aspx
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rule change does not affect local government expenditure of funds.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

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Illinois Department of Public Health
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- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals will be affected in that they will no longer have to submit this data to the Department.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

The full text of the proposed amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 255

HOSPITAL REPORT CARD CODE

Section

255.100	Definitions
255.110	Referenced Materials
255.120	Confidentiality
255.150	Staffing Levels
255.200	Orientation and Training
255.250	Hospital Reports
255.260	Compliance (Repealed)
255.270	Reporting
255.280	Enforcement

AUTHORITY: Implementing and authorized by the Hospital Report Card Act [210 ILCS 86].

SOURCE: Adopted at 31 Ill. Reg. 5839, effective March 28, 2007; amended at 39 Ill. Reg. _____, effective _____.

Section 255.100 Definitions

~~For the purpose of this Part:~~

"Act" means the Hospital Report Card Act ~~[210 ILCS 86]~~.

"Actual nurse staffing assignment roster" means the nurse-patient assignment on each unit that reflects direct nursing services provided within a 24-hour time period to each patient, excluding any information that might identify a particular patient or nurse.

"Acute care" means the treatment of a condition or disease for a short period of time in which a patient is treated for a brief but severe episode of illness with the goal of discharging the patient.

"Appropriately trained" means has completed the orientation course for the job title as specified by the employing hospital.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Artificial life support" ~~means is~~ a system that uses medical technology to aid, support, or replace a vital function of the body that has been seriously damaged.

"Assigned" means that the registered professional nurse, licensed practical nurse, or other nursing personnel have responsibility for the provision of care to a particular patient within their scope of practice.

"Assistive nursing personnel" means personnel assigned responsibility for the provision of nursing care to a particular patient within their scope of practice, other than registered professional nurses or licensed practical nurses.

"Average daily census" means the average number of inpatients receiving service on any given 24-hour period beginning at midnight in each clinical service area of the hospital. (Section 10 of the Act) Average daily census ~~shall must~~ be calculated as the sum of inpatients every day at midnight for the quarter, divided by the number of days in the quarter.

"Average daily hours worked" means the total number of direct care nursing hours paid in the quarter per clinical service area, divided by the total number of calendar days in the quarter, to obtain the average number of worked hours per calendar day.

"Behavioral health" means the clinical service areas in which inpatients are receiving care and treatment for mental illnesses, substance abuse disorders ~~and/or~~ dependence, co-occurring mental illness and substance abuse disorders, or organic brain disorders, such as Alzheimer's Disease or senile dementia with psychotic or depressive symptoms. For the ~~purposes purpose~~ of this Part, behavioral health clinical service areas do not include the following areas and their subcategories: critical care; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Clinical service area" means a grouping of clinical services by a generic class of various types or levels of support functions, equipment, care, or treatment provided to inpatients. Hospitals may have, but are not required to have, behavioral health, critical care, maternal-child care, medical-surgical, pediatrics, perioperative services, and telemetry. (Section 10 of the Act) These services shall be measured in patient day units. "Perioperative" clinical service areas are defined in the definition of "perioperative" in this Part.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~"CMMS" means the Centers for Medicare and Medicaid Services.~~

"Critical care" means the clinical service areas organized, operated, and maintained to provide for monitoring and caring for patients with severe or potentially severe physiologic instability requiring technical support and often requiring artificial life support.

"Critical care service area" ~~means, as defined in this Part, does include~~ adult and pediatric critical care patient populations, but does not include intensive care newborn nursery services. ~~For the purposes~~ Furthermore, for the purpose of this Part, critical care clinical service areas do not include the following areas and their subcategories: behavioral health; maternal-child; medical-surgical; pediatrics; perioperative; and telemetry.

"Current nursing staff schedules" means the prospective staffing schedules for each patient care unit, excluding any information that might identify a particular nurse, made in advance of a designated time frame, e.g., weekly, monthly or quarterly.

"Department" means the Department of Public Health. (Section 10 of the Act)

"Direct-care nurse" and "direct-care nursing staff" include any registered nurse, licensed practical nurse, or assistive nursing personnel with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients. (Section 10 of the Act)

"Direct patient care responsibilities" means the activities of direct care nurses and direct care assistive nursing personnel who are assigned to a patient or patients.

"Direct supervision" means a situation in which an individual is responsible for directing the actions of another individual in the facility and is physically close enough to be readily available, if needed, by the supervised individual. "Direct supervision" ~~shall~~ ~~must~~ be conducted by a registered professional nurse.

"Employee" means any full-time or part-time direct care nursing staff employee who works a regularly scheduled number of hours in a defined pay period. Not included are direct care nursing staff who work on an as-needed basis and are not guaranteed work hours, including, but not limited to, casual, per diem, and registry personnel.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Full-time equivalent" means hospital-employed licensed nursing hours budgeted to work in a seven-day time period divided by 37.5, or in a 14-day time period divided by 75, or annually divided by 1950.

"Indirect patient care responsibilities" means the activities of nurses, such as nurse managers, charge nurses, clinical nurse specialists and other ancillary licensed nursing personnel, when they are not assigned to direct patient care activities.

"Hospital" means a health care facility licensed under the Hospital Licensing Act. (Section 10 of the Act)

"Hospital Quality Alliance" means the public-private collaboration that collects and reports hospital quality performance information and makes it available to consumers through [Centers for Medicare and Medicaid Services \(CMMS\)](#) information channels.

"Inpatient" means a person admitted for at least one overnight stay to health facilities, usually hospitals, that provide board and room, for the purpose of observation, care, diagnosis or treatment.

"Intensive Care Unit" or "ICU" means a hospital facility for provision of intensive nursing and medical care of critically ill patients, characterized by high quality and quantity of continuous nursing and medical supervision and by use of sophisticated monitoring and resuscitative equipment. An ICU may be organized for the care of specific patient groups, e.g., neonatal or newborn ICU, neurological ICU, or pulmonary ICU.

"Licensed nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by licensed nursing personnel with direct care responsibilities, divided by the total inpatient days.

"Licensed practical nurse" or "LPN" means a person meeting the requirements for licensure by the Department of Financial and Professional Regulation as a licensed practical nurse pursuant to the [NurseIllinois Nursing and Advanced Practice Nursing](#) Act.

"Maternal-child" means the clinical service areas that are designed, equipped, organized and operated in accordance with the requirements of the Hospital Licensing Act relating to the medical-surgical care of a patient prior to and during the act of giving birth to either a living child or a dead fetus and the continuing

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

care of both patient and newborn infant. For the ~~purposes purpose~~ of this Part, intensive care newborn nursery services are included in maternal-child clinical service areas. ~~Maternal~~~~However, maternal~~ child clinical service areas do not include the following clinical service areas and their subcategories: behavioral health; critical care; medical-surgical; pediatrics; perioperative; and telemetry.

"Medical-surgical" means the clinical service areas in which patients who require less care than that which is available in intensive care units or telemetry units have available 24-hour inpatient general medical services, post-surgical services, or both general medical and post-surgical services. These units may include mixed patient populations of diverse diagnoses and diverse age groups. For the ~~purposes purpose~~ of this Part, medical-surgical clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; pediatrics; perioperative; and telemetry.

"Nursing care" means care that falls within the scope of practice set forth in the ~~Nurse Nursing and Advanced Practice Nursing~~ Act or is otherwise encompassed within recognized professional standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation, and patient advocacy. (Section 10 of the Act)

"Nursing hours per inpatient day" means, for the quarter, the total number of productive hours worked by registered nurses, licensed practical nurses, and assistive nursing personnel, in each case, with direct patient care responsibilities, divided by the total inpatient days.

"Observation care" means those services furnished by a hospital on the hospital's premises, including use of a bed and at least periodic monitoring by a hospital's nursing or other staff, that are reasonable and necessary to evaluate an outpatient's condition or determine the need for a possible admission to the hospital as an inpatient. In general, the duration of observation care services does not exceed 24 to 48 hours, depending on the hospital, physician and health plan.

"Pediatrics" means the clinical service areas in acute care hospitals that are designed, equipped, organized and operated to render non-intensive care to the 0-17 age population performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses, and other professional and technical personnel. For the ~~purposes purpose~~ of this Part, pediatric clinical service areas in acute care hospitals do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; perioperative;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

and telemetry. Pediatric hospitals, ~~however,~~ may incorporate any or all of these clinical service areas in fulfilling their role of specialty treatment facilities for the medical care of infants, children, and adolescents. Pediatric hospitals shall consider all care provided as pediatric without regard for where in the facility the service was rendered. For patients in specialty pediatric hospitals, age requirements are extended to include those patients who, due to condition, care and treatment requirements, continue to be considered pediatric. Clinical service area comparisons for pediatric hospitals ~~shall should~~ follow the guidelines of national pediatric organizations. ~~An In the event of an~~ adult or specialty hospital operating a pediatric hospital within the larger hospital ~~shall, the embedded pediatric hospital should~~ report using its National Provider Identifier and taxonomy codes to allow differentiation of nursing hours and more meaningful comparisons.

"Perioperative" means the clinical service areas that are designed, equipped, organized and operated to provide care for inpatients during the preoperative, intraoperative and immediate postoperative periods of a hospital stay. For the ~~purposes purpose~~ of this Part, perioperative clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and telemetry.

"Productive hours" means the actual work hours, exclusive of vacation, holidays, sick leave and any other absences, with the following inclusions and exclusions.

Agency, per diem and registry RNs with direct patient care responsibility shall be included in the number of productive hours for the mandated reports.

The number of productive hours for mandated reports ~~under this Section~~ shall not include nurse managers, charge nurses who are not assigned direct patient care responsibilities, or any other licensed nursing personnel who do not have a direct care patient assignment.

The number of productive hours for mandated reports ~~report~~ shall not include licensed nurses who are participating in orientation ~~in the number of productive hours~~.

"Registered professional nurse" or "RN" means a person meeting the requirements for licensure by the Department of Financial and Professional

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Regulation as a registered professional nurse pursuant to the provisions of the ~~Nurse Illinois Nursing and Advanced Practice Nursing~~ Act.

"Separated" means any licensed nursing employee who is permanently removed for any reason, including voluntary, involuntary or employee transfer, from the payroll allotted for a clinical service area.

"Staffing levels" means the numerical nurse to patient ratio by licensed nurse classification within a nursing department or unit. (Section 10 of the Act)

~~"Surgical Care Improvement Project" or "SCIP" means the infection-related quality measures developed under the Surgical Care Improvement Project of the Hospital Quality Alliance (HQA) (see www.medic.org/scip).~~

"Telemetry unit" means a unit organized, operated and maintained to provide care for and continuous cardiac monitoring of patients in a stable condition, having or suspected of having a cardiac condition or a disease requiring the electronic monitoring, recording, retrieval, and display of cardiac electrical signals.

"Telemetry unit" ~~as defined in this Part~~ does not include fetal monitoring or fetal surveillance. ~~For Furthermore, for the purposes purpose~~ of this Part, telemetry clinical service areas do not include the following areas and their subcategories: behavioral health; critical care; maternal-child; medical-surgical; pediatrics; and perioperative care.

"Technical support" means specialized equipment and/or personnel providing for invasive monitoring, telemetry, or mechanical ventilation, for the immediate amelioration or remediation of severe pathology.

"Unit" means a functional division or area of a hospital in which nursing care is provided. (Section 10 of the Act)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 255.110 Referenced Materials

~~a)~~ The following statutes are referenced in this Part:

~~a)1)~~ Hospital Licensing Act [210 ILCS 85]

~~b)2)~~ ~~Nurse Nursing and Advanced Practice Nursing~~ Act [225 ILCS 65]

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

c) [Hospital Report Card Act \[210 ILCS 86\]](#)

~~d)3)~~ Freedom of Information Act [5 ILCS 140]

~~b)~~ ~~Hospital Quality Alliance~~
~~Surgical Care Improvement Project (SCIP)~~
~~www.medqie.org/scip~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 255.250 Hospital Reports

a) *Individual hospitals shall prepare a quarterly report including all of the following (Section 25(a) of the Act):*

1) Direct care hours, by reporting individually all of the following:

A) Total inpatient days, which is the sum of each daily census for the time period.

B) Total direct care RN hours, which equals the sum of the paid~~;~~ productive hours for direct care RN employees, including agency, per diem and registry RNs.

C) Total direct care LPN hours, which equals the sum of the paid~~;~~ productive hours for direct care LPN employees, including agency, per diem and registry LPNs.

D) Total direct care hours for assistive nursing personnel, which is the sum of the paid~~;~~ productive hours for direct care assistive nursing personnel, including agency, per diem and registry assistive nursing personnel.

E) *Nursing hours per patient day* for direct care, which is the sum of total direct care RN hours and total direct care LPN hours and total direct care assistive nursing personnel hours divided by total inpatient days. (Section 25(a)(1) of the Act)

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- F) Licensed nursing hours per patient day – by RNs and LPNs (RN hours per patient day, LPN hours per patient day), which is:
- i) the total direct care hospital employed RN hours divided by the total inpatient days for the quarter;
 - ii) the total direct care commercial agency contracted RN hours divided by the total inpatient days for the quarter;
 - iii) the total direct care hospital employed LPN hours divided by the total inpatient days for the quarter; and
 - iv) the total direct care commercial agency contracted LPN hours divided by the total inpatient days for the quarter.
- G) *Average daily hours worked* (Section 25(a)(1) of the Act) – by RNs and LPNs (average daily RN hours worked, average daily LPN hours worked), which is:
- i) the total direct care hospital employed RN hours divided by the number of calendar days for the quarter,
 - ii) the total direct care commercial agency contracted RN hours divided by the number of calendar days for the quarter,
 - iii) the total direct care hospital employed LPN hours divided by the number of calendar days for the quarter, and
 - iv) the total direct care commercial agency contracted LPN hours divided by the number of calendar days for the quarter.
- H) *Average daily census per clinical service area*, which is the total inpatient days divided by the days in the quarter. (Section 25(a)(1) of the Act)
- 2) *Infection-related measures for the facility for the following clinical procedures* (Section 25(a)(2) of the Act) ~~according to the following~~

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~schedule~~ for patients ages 18 and over in hospitals providing services where these treatments are clinically appropriate.÷

- A) ~~Commencing on July 1, 2007 for Medicare PPS (prospective payment system) inpatient hospitals and October 1, 2007 for inpatient hospitals that are not Medicare PPS, surgical process measures as set forth in SCIP according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA as follows:~~
 - i) ~~Prophylactic antibiotic received within one hour prior to surgical incision.~~
 - ii) ~~Prophylactic antibiotic selection for surgical patients.~~
 - iii) ~~Prophylactic antibiotics discontinued within 24 hours after surgery end time.~~
- B) ~~Commencing on October 1, 2007, surgical process measures as set forth in SCIP, according to the following implementation dates and schedules or as modified by SCIP for CMMS/HQA~~
 - i) ~~Cardiac surgery patients with prophylactic antibiotics discontinued within 48 hours after surgery.~~
 - ii) ~~Cardiac surgery patients with controlled 6 a.m. postoperative serum glucose.~~
- A)C) ~~Surgical~~ Commencing on July 1, 2007, surgical outcome measures by reporting postoperative wound infection diagnosed during index hospitalization.
- B)D) Central ~~Commencing on July 1, 2008, central~~ vascular catheter-related bloodstream infection rates in designated critical care units.
- C)E) Patients ~~Commencing on July 1, 2008, patients~~ diagnosed with postoperative ventilator-associated pneumonia (VAP) during index hospitalization ~~as set forth in SCIP.~~

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) Individual hospitals may also, but are not required to, submit the following optional reports: (Agency, per-diem and registry RNs must be included in the number of productive hours for the optional report. The optional report may not include licensed nursing orientees in the number of productive hours.)
 - 1) Total number of nursing hours per patient day and licensed nursing hours per patient day for those licensed nursing personnel with indirect patient care responsibilities. The licensed nursing hours per patient day will be reported separately for registered professional nurses and licensed practical nurses. Hospitals may also submit the number of licensed nursing hours per patient day that are associated with caring for outpatient and observation patients.
 - 2) Average daily hours worked and average daily census for the quarter per clinical service area.
- c) *Individual hospitals shall prepare annual reports including vacancy and turnover rates for licensed nurses per clinical service area* for direct care nurses as follows: (Section 25(b) of the Act)
 - 1) Vacancy Rate:

The vacancy rate submitted for licensed nurses per clinical service area must equal the number of full-time equivalent openings for licensed nursing personnel on January 1 of each year, divided by the number of full-time equivalents for licensed nursing personnel budgeted as of January 1. Budgeted positions include both filled positions and vacant positions for which the hospital is recruiting on January 1. The vacancy rate does not include those licensed nursing employees who are on family, medical or disability leave or who provide per diem services to the hospital. The vacancy rate shall be reported separately for registered nurses and licensed practical nurses.
 - 2) Turnover Rate:

The turnover rate submitted for licensed nurses per clinical service area must equal the number of separated employees for licensed nursing personnel for the calendar year preceding January 1, divided by the number of employees for licensed nursing personnel on the hospital's payroll for the same clinical service area as of the preceding January 1. The turnover rate does not include those licensed nursing employees who are on family, medical or disability leave or who provide per diem

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

services to the hospital. The turnover rate shall be reported separately for registered nurses and licensed practical nurses.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 255.260 Compliance (Repealed)

- a) ~~The staffing data to be reported under Section 25(a)(1) of the Act shall be phased in from July 1, 2007 according to the following schedule:~~
 - 1) ~~For the first three months, the Department shall educate hospitals about the reporting requirements, format and process for data required under Section 25(a)(1) of the Act;~~
 - 2) ~~For the next three months, the Department shall conduct a voluntary pilot program that will give all hospitals that wish to participate the opportunity to work with the reporting form and process for data covered under Section 25(a)(1) of the Act and to give the Department an opportunity to make any necessary or helpful modifications to the format and process for such reporting; and~~
 - 3) ~~For the next three months, all hospitals shall be required to report staffing level data using the modified form or process developed under subsection (a)(2).~~
- b) ~~All hospitals shall be required to submit quarterly reports in accordance with this Part beginning with data from the next full calendar quarter from the date the Department notifies hospitals that the reporting form and process have been finalized.~~

(Source: Repealed at 39 Ill. Reg. _____, effective _____)