

958 CMR 8.00: PATIENT ASSIGNMENT LIMITS FOR REGISTERED  
NURSES IN INTENSIVE CARE UNITS IN ACUTE  
HOSPITALS

Section

- 8.01: General Provisions
- 8.02: Definitions
- 8.03: Applicability
- 8.04: Staff Nurse Patient Assignment in Intensive Care Units
- 8.05: Assessment of Patient Stability
- 8.06: Development or Selection and Implementation of the Acuity Tool
- 8.07: Required Elements of the Acuity Tool
- 8.08: Records of Compliance
- 8.09: Acuity Tool Certification and Compliance
- 8.10: Public Reporting on Nurse Staffing Compliance
- 8.11: Collection and Reporting of Quality Measures
- 8.12: Certification Timeline
- 8.13: Severability

8.01: General Provisions

Scope and Purpose. 958 CMR 8.00 governs the implementation of M.G.L. c. 111, §231, which establishes Patient Assignment limits for Registered Nurses in Intensive Care Units in Acute Hospitals licensed by the Massachusetts Department of Public Health and in hospitals operated by the Commonwealth of Massachusetts, including the process for selecting or developing the Acuity Tool and required elements of the Acuity Tool.

8.02: Definitions

As used in 958 CMR 8.00 the following words mean:

Acuity Tool. A decision support tool using a method for assessing patient stability for the ICU Patient according to a defined set of indicators (including Clinical Indicators of Patient Stability and Indicators of Staff Nurse Workload), and used in the determination of a Patient Assignment.

Acute Hospital. The teaching hospital of the University of Massachusetts Medical School, any hospital licensed by the Department of Public Health pursuant to M.G.L. c. 111, § 51 or hospital operated by the Commonwealth, and which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds as defined by the Department.

Clinical Indicators of Patient Stability. Indicators of ICU Patient stability related to the physiological status and clinical complexity and related scheduled procedures, medications and therapeutic supports appropriate to the ICU Patient population in the ICU in which the Acuity Tool will be deployed.

Commission. The Health Policy Commission established in M.G.L. c. 6D.

Critical Environmental Factors. Factors relevant to the particular ICU in which the Acuity Tool will be deployed that may affect the ability of Staff Nurses to care for one or two ICU Patients, such as: physical environment of the ICU, including visibility of patient/monitoring equipment; nursing skill mix, competency and familiarity with the ICU; availability of patient care equipment and technology; and availability of medical, ancillary and support staff in the ICU (e.g., physician, pharmacist, IV team/respiratory therapist, nurse practitioner, clinical nurse specialist, physician assistant, unit secretary, sitters, aides/technicians, staff to operate patient care equipment and technology, patient transport services, travel team/coverage).

Department. The Massachusetts Department of Public Health established in M.G.L. c. 17, § 1.

ICU Patient. A patient occupying a bed in an ICU.

Indicators of Staff Nurse Workload. Indicators of Staff Nurse workload associated with caring for the ICU Patient appropriate to the ICU Patient population in the ICU in which the Acuity Tool will be deployed, such as: patient age, including gestational age as applicable, and cognitive/functional ability; patient and family communication skills and cultural/linguistic characteristics; need for patient and family education; family and other support for the patient; need for care coordination; transitional care and discharge planning required for the patient.

Intensive Care Unit (“ICU”). A unit physically and identifiably separate from general routine and other patient care areas, in which are concentrated special equipment and skilled personnel for the care of critically ill inpatients requiring immediate and concentrated continuous care and observation, and which meets the Medicare requirements in 42 CFR 413.53(d) for intensive care type inpatient hospital units, licensed by the Department, and shall include intensive care unit, coronary care unit, burn unit, pediatric intensive care unit and neonatal intensive care unit, as defined in 105 CMR 130.020: *Definitions*, however named by the Acute Hospital, and any such unit in a hospital operated by the Commonwealth.

Nurse Manager. A nurse with management responsibility for nursing services for the ICU.

Patient Assignment. The assignment of a Staff Nurse to care for specified ICU Patient(s), consistent with the education, experience and demonstrated competence of the Staff Nurse, the needs of the ICU Patient(s), and the requirements of 958 CMR 8.00.

Registered Nurse. A nurse who meets the criteria for licensure under M.G.L. c. 112, § 74 and 244 CMR 8.00: *Licensure Requirements*, and who holds a valid license from the Massachusetts Board of Registration in Nursing to engage in the practice of nursing in Massachusetts as a Registered Nurse.

Shift. A designated period of work time within the ICU.

Staff Nurse. A Registered Nurse providing direct patient care in an ICU.

#### 8.03: Applicability

958 CMR 8.00 applies to Acute Hospitals licensed by the Department to provide service(s) in ICUs, as defined in 958 CMR 8.02, and to hospitals operated by the Commonwealth and authorized to provide ICU service(s).

#### 8.04: Staff Nurse Patient Assignment in Intensive Care Units

- (1) In all ICUs, the Patient Assignment for each Staff Nurse shall be one or two ICU Patients depending on the stability of the ICU Patient as assessed pursuant to 958 CMR 8.05.
- (2) The maximum Patient Assignment for each Staff Nurse may not exceed two ICU Patients.
- (3) Nothing in 958 CMR 8.00 prohibits the assignment of more than one Staff Nurse to an ICU Patient.

#### 8.05: Assessment of Patient Stability

- (1) For purposes of implementing 958 CMR 8.04, the Staff Nurse assessing the ICU Patient shall assess the stability of the ICU Patient utilizing:
  - (a) The exercise of sound nursing assessment and judgment within the parameters of the Staff Nurse's continuing education and experience; and
  - (b) The Acuity Tool developed or selected by the Acute Hospital and certified by the Department, pursuant to 958 CMR 8.00.
- (2) If the Staff Nurse assessing the ICU Patient determines within the exercise and scope of sound nursing assessment and judgment within the parameters of the Staff Nurse's continuing education and experience that the ICU Patient's stability requires a different Staff Nurse-to-patient ratio than that indicated by the Acuity Tool, the Nurse Manager or the Nurse Manager's designee shall resolve the disagreement between the Acuity Tool and the Staff Nurse's assessment, in consultation as appropriate with the other Staff Nurses in the ICU and taking into account nursing skill mix and patient census in the ICU and other Critical Environmental Factors, and shall determine the appropriate Patient Assignment.

- (3) The Staff Nurse assessing the ICU Patient shall assess the stability of the ICU Patient using the Acuity Tool at a minimum:
  - (a) Upon the ICU Patient's admission or transfer to the ICU;
  - (b) Once during a Shift; and
  - (c) At other intervals or circumstances as specified in the Acute Hospital's policies and procedures established pursuant to 958 CMR 8.06(3)(a).
- (4) Nothing in this section shall limit the application of relevant state or federal law to Registered Nurses, including M.G.L. c. 112, § 80B, 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse*, and 244 CMR 9.00: *Standards of Conduct*.

8.06: Development or Selection and Implementation of the Acuity Tool

- (1) Each Acute Hospital shall develop or select an Acuity Tool for each ICU that meets the requirements of 958 CMR 8.00, in order to:
  - (a) Support the determination of whether each ICU Patient requires care by one or more Staff Nurses, or by a Staff Nurse assigned to care for no more than two ICU Patients; and
  - (b) Address the unique care needs and circumstances of the patient population in and physical environment of each ICU at the Acute Hospital.
- (2) Each Acute Hospital shall establish and document the process for development or selection of the Acuity Tool to be deployed in each ICU, which shall include but not be limited to the following required elements:
  - (a) Formation of an advisory committee to make recommendations to the Acute Hospital on the development or selection and use of the Acuity Tool to be deployed in each ICU, which committee shall be composed of at least 50 % Staff Nurses in the ICU in which the Acuity Tool will be deployed who are not Nurse Managers, together with other members selected by the Acute Hospital including but not limited to representatives of nursing management, and other appropriate ancillary and medical staff;
  - (b) A process for the advisory committee to make recommendations on the required elements of the Acuity Tool as set forth in 958 CMR 8.07 and other considerations for the use of the Acuity Tool including but not limited to the following:
    1. The defined set of indicators to be assessed by the Acuity Tool, including Clinical Indicators of Patient Stability and other Indicators of Staff Nurse Workload;

2. A method for scoring the defined set of indicators and how scores are tabulated and used in the determination of whether each ICU Patient requires care by one or more Staff Nurses, or by a Staff Nurse assigned to care for no more than two ICU Patients; and
3. Critical Environmental Factors.
  - (c) A process for Staff Nurses to participate in the testing of, validation of and recommendations for revision to the Acuity Tool prior to implementation; and
  - (d) A process for the Acute Hospital to address and respond to recommendations of the advisory committee regarding the selection or development and use of the Acuity Tool pursuant to 958 CMR 8.06.
- (3) Each Acute Hospital shall develop written policies and procedures for implementation of the Acuity Tool to be deployed in each ICU, which shall include but not be limited to:
  - (a) Assessment of patient stability and how the resulting Acuity Tool score will be used to support the determination of the appropriate Patient Assignment in the ICU, consistent with the requirements of 958 CMR 8.00; and
  - (b) Periodic review and evaluation of the implementation of the Acuity Tool.
- (4) Within the requirements of 958 CMR 8.06, nothing shall prevent an Acute Hospital with multiple ICUs from seeking administrative efficiency in the development or selection of Acuity Tools by, for example, duplicating non-Staff Nurse members selected by the Acute Hospital pursuant to 958 CMR 8.06(2)(a) on advisory committees or considering a common format or platform for Acuity Tools used in the Acute Hospital.

8.07: Required Elements of the Acuity Tool

Each Acute Hospital shall develop or select an Acuity Tool that meets the following minimum requirements:

- (1) The Acuity Tool shall be in writing either in electronic or hardcopy format;
- (2) The Acuity Tool shall be tailored to the unique care needs and circumstances of the patient population in the ICU in which the Acuity Tool is deployed;
- (3) The Acuity Tool shall include a method for scoring a defined set of indicators, which shall include Clinical Indicators of Patient Stability and other Indicators of Staff Nurse Workload; and
- (4) Other requirements as may be specified in guidance of the Commission.

8.08: Records of Compliance

- (1) Development or Selection of Acuity Tool(s). Each Acute Hospital shall document, retain for a minimum period of ten years and provide to the Department and the Commission upon request, the following records related to the development or selection of the Acuity Tool required by 958 CMR 8.06(2):
  - (a) Membership of the advisory committee including name and title of members;
  - (b) Minutes from meetings of the advisory committee; and
  - (c) The Acute Hospital's rationale for selection or development of the Acuity Tool including how the Acute Hospital addressed recommendations of the advisory committee and the decision to include or exclude certain Clinical Indicators of Patient Stability and other related Indicators of Staff Nurse Workload, and how Critical Environmental Factors in 958 CMR 8.06(2)(b)(3) were taken into account in the selection and the method for scoring of the indicators.
- (2) Staffing Compliance. Each Acute Hospital shall document and retain for a minimum period of ten years the results of the assessment of ICU Patient stability for each ICU Patient and Patient Assignment pursuant to 958 CMR 8.04 and 8.05.

8.09: Acuity Tool Certification and Compliance

Acute Hospitals shall comply with the requirements for certification of an Acuity Tool and compliance with M.G.L. c. 111, § 231 and 958 CMR 8.00, as established by the Department.

8.10: Public Reporting on Nurse Staffing Compliance

- (1) Each Acute Hospital shall report to the Department, in the form and manner specified by the Department, reports of Staff Nurse-to-patient ratios by ICU; and
- (2) Each Acute Hospital shall post the reports provided to the Department pursuant to 958 CMR 8.10(1) on the Acute Hospital's website, or as may be specified in guidance of the Commission.

8.11: Collection and Reporting of Quality Measures

Each Acute Hospital shall:

- (1) Report the ICU-related quality measures specified in guidance of the Commission;
- (2) Report the quality measures for each ICU to the Department in the form and manner specified by the Department; and
- (3) Post the reports provided to the Department pursuant to 958 CMR 8.11(2) on the Acute Hospital's website, or as may be specified in guidance of the Commission.

8.12: Certification Timeline

Each Acute Hospital shall comply with the requirements of the Department for certification of an Acuity Tool for each ICU by the dates below, or as may be otherwise specified in the Department's requirements for certification:

- (1) Each Acute Hospital that is an academic medical center, as the term is used by the Center for Health Information and Analysis, shall comply with the requirements of the Department for certification of an Acuity Tool for each neonatal intensive care unit no later than January 31, 2017, and for all other ICUs no later than March 31, 2016.
- (2) All other Acute Hospitals shall comply with the requirements of the Department for certification of an Acuity Tool for each ICU no later than January 31, 2017.

8.13: Severability

If any section or portion of 958 CMR 8.00 or the applicability thereof is held invalid or unconstitutional by any court of competent jurisdiction, the remainder of 958 CMR 8.00 or applicability thereof to other persons, entities, or circumstances shall not thereby be affected.

REGULATORY AUTHORITY

958 CMR 8.00: MGL c. 111, § 231.