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1 A bill to be entitled

2 An act relating to the staffing of health care facilities;
3 providing a popular name; providing legislative findings;
4 defining terms; prescribing facility staffing standards
5 relating to nurse-to-patient ratios, staffing plans, and
6 the minimum skill mix; allowing the implementation of
7 higher staffing levels; providing recordkeeping
8 requirements; prohibiting mandatory overtime and excessive
9 duty hours; allowing voluntary overtime work; providing a
10 statement of employee rights; providing for the Agency for
11 Health Care Administration to ensure compliance with the
12 act and to adopt rules; providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Popular name.--This act shall be known by the
17 popular name "The Safe Staffing for Quality Care Act."

18 Section 2. Legislative findings.--The Legislature finds
19 that:

20 (1) The state has a substantial interest in assuring that
21 delivery of health care services to patients in health care
22 facilities located within this state is adequate and safe and
23 that health care facilities retain sufficient nursing staff so
24 as to promote optimal health care outcomes.

25 (2) Recent changes in our health care delivery system are
26 resulting in a higher acuity level among patients in health care
27 facilities.

28 (3) Extensive research indicates that inadequate
29 registered-nurse staffing in hospitals can result in increased



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30 patient death rates, dangerous medical errors, and increased
31 length of stay.

32 (4) To ensure the adequate protection and care for
33 patients in health care facilities, it is essential that
34 qualified registered nurses be accessible and available to meet
35 the nursing needs of patients.

36 Section 3. Definitions.--As used in this act, the term:

37 (1) "Acuity system" means an established measurement
38 instrument that:

39 (a) Predicts nursing care requirements for individual
40 patients based on severity of patient illness, need for
41 specialized equipment and technology, intensity of nursing
42 interventions required, and the complexity of clinical nursing
43 judgment needed to design, implement, and evaluate the patient's
44 nursing care plan;

45 (b) Details the amount of nursing care needed, both in
46 number of registered nurses and in skill mix of nursing
47 personnel required daily for each patient in a nursing
48 department or unit; and

49 (c) Is stated in terms that can be readily used and
50 understood by direct-care nursing staff.

51 (2) "Assessment tool" means a measurement system that
52 compares the staffing level in each nursing department or unit
53 to actual patient nursing care requirements in order to review
54 the accuracy of an acuity system.

55 (3) "Documented staffing plan" means a detailed written
56 plan setting forth the minimum number, skill mix, and
57 classification of licensed nurses required in each nursing
58 department or unit in the health facility for a given year,
59 based on reasonable projections derived from the patient census



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60 and average acuity level within each department or unit during
61 the previous year, the department or unit size and geography,
62 the nature of services provided, and any foreseeable changes in
63 department or unit size or function during the current year.

64 (4) "Critical care unit" means a unit of a hospital which
65 is established to safeguard and protect patients the severity of
66 whose medical conditions requires continuous monitoring and
67 complex nursing intervention.

68 (5) "Declared state of emergency" means an officially
69 designated state of emergency which has been declared by a
70 federal, state, or local government official who has the
71 authority to declare that the state, county, municipality, or
72 locality is in a state of emergency, but does not include a
73 state of emergency which results from a labor dispute in the
74 health care industry.

75 (6) "Direct-care nurse" or "direct-care nursing staff"
76 means any registered nurse who has direct responsibility to
77 oversee or carry out medical regimens or nursing care for one or
78 more patients. Only registered nurses who have specific patient
79 care assignments shall be included in the calculation of the
80 registered nurse-to-patient ratio.

81 (7) "Health care facility" means an acute care hospital;
82 an emergency care, ambulatory, or outpatient surgery facility
83 licensed under section 395.003, Florida Statutes; or a
84 psychiatric facility licensed under chapter 394, Florida
85 Statutes.

86 (8) "Nurse" means a registered nurse.

87 (9) "Nursing care" means care that falls within the scope
88 of practice set forth in chapter 464, Florida Statutes, and
89 other laws and regulations or that is otherwise encompassed



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90 within recognized professional standards of nursing practice,
 91 including assessment, nursing diagnosis, planning, intervention,
 92 evaluation, and patient advocacy.

93 (10) "Off-duty" means that the individual has no
 94 restrictions placed on his or her whereabouts and is free of all
 95 restraint or duty on behalf of the health care facility.

96 (11) "On-duty" means that the individual is required to be
 97 available and ready to perform services on request within or on
 98 behalf of the health care facility and includes any rest periods
 99 or breaks during which the individual's ability to leave the
 100 health care facility is restricted either expressly or by work-
 101 related circumstances beyond the individual's control.

102 (12) "Overtime" means the hours worked in excess of any of
 103 the following:

104 (a) An agreed-upon, predetermined, regularly scheduled
 105 shift;

106 (b) Twelve hours in a 24-hour period; or

107 (c) Eighty hours in a consecutive 14-day period.

108 (13) "On-call time" means time spent by an employee who is
 109 not working on the premises of the place of employment but who
 110 is compensated for availability or who, as a condition of
 111 employment, has agreed to be available to return to the premises
 112 of the place of employment on short notice if the need arises.

113 (14) "Reasonable efforts" in reference to the prohibition
 114 on mandatory overtime means that the employer does all of the
 115 following but is unable to obtain staff coverage:

116 (a) Seeks individuals to volunteer to work extra time from
 117 all available qualified staff who are working;

118 (b) Contacts qualified employees who have made themselves
 119 available to work extra time;



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- 120 (c) Seeks the use of per diem staff; and
- 121 (d) Seeks personnel from a contracted temporary agency if
122 such staffing is permitted by law or an applicable collective
123 bargaining agreement.
- 124 (15) "Unforeseeable emergent circumstance" means:
- 125 (a) Any unforeseen declared national, state, or municipal
126 emergency;
- 127 (b) A situation in which a health care facility disaster
128 plan is activated; or
- 129 (c) Any unforeseen disaster or other catastrophic event
130 that substantially affects or increases the need for health care
131 services.
- 132 (16) "Skill mix" means the differences in licensing,
133 specialty, and experience among direct-care nurses.
- 134 (17) "Staffing level" means the actual numerical
135 registered nurse-to-patient ratio within a nursing department or
136 unit.
- 137 Section 4. Facility staffing standards.--
- 138 (1) SPECIFIC STANDARDS.--Hospitals shall provide staffing
139 by registered nurses in accordance with the following maximum
140 patient assignments in the units specified. Additional
141 registered nurse staffing, auxiliary staffing by nurses other
142 than registered nurses or staffing by other healthcare
143 professionals are not included in these ratios and shall be
144 determined pursuant to the patient classification system as
145 provided in paragraph (b). Nurse-to-patient ratios represent the
146 maximum number of patients which shall be assigned to one
147 registered nurse during one shift. Only nurses providing direct
148 patient care shall be included in the ratios. This section does
149 not prohibit a registered nurse from providing care within the



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150 scope of his or her practice to a patient who is assigned to
151 another nurse.

152 (a) There shall be a maximum of two patients assigned to
153 each registered nurse so that the minimum registered nurse-to-
154 patient ratio in a critical care unit must be 1:2 or fewer at
155 any time. As used in this paragraph, the term "critical care
156 unit" means a nursing unit of a general acute care hospital
157 which provides one of the following services: an intensive care
158 service, a burn center, a coronary care service, or an acute
159 respiratory service. In the intensive care newborn nursery
160 service, a maximum of two patients shall be assigned to each
161 registered nurse.

162 (b) The surgical service operating room shall have a
163 maximum of one patient-occupied operating room assigned to each
164 registered nurse.

165 (c) There shall be a maximum of two patients assigned to
166 each registered nurse in a labor and delivery suite of the
167 perinatal service so that the registered nurse-to-patient ratio
168 shall be 1:2 or fewer at any time.

169 (d) There shall be a maximum of two patients assigned to
170 each registered nurse in a labor/delivery unit.

171 (e) There shall be a maximum of three mother-baby couplets
172 assigned to each registered nurse in a postpartum area of the
173 perinatal unit at any time. In the event of multiple births, the
174 total number of mothers plus infants assigned to a single
175 registered nurse shall never exceed six.

176 (f) There shall be a maximum of two patients assigned to
177 each registered nurse in a postanesthesia recovery unit.

178 (g) In a hospital providing basic emergency medical
179 services or comprehensive emergency medical services, there



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180 shall be a maximum of three patients who are receiving emergency
181 treatment assigned to each registered nurse so that the
182 registered nurse-to-patient ratio in an emergency department
183 shall be 1:3 or fewer at any time patients are receiving
184 treatment. There shall be no fewer than two registered nurses
185 physically present in the emergency department when a patient is
186 present.

187 (h) The nurse assigned to triage patients shall not have a
188 patient assignment, shall not be assigned responsibility for the
189 base radio, and shall not be counted in the registered nurse-to-
190 patient ratio.

191 (i) When nursing staff are attending critical care
192 patients in the emergency department, there shall be a maximum
193 of two patients assigned to each registered nurse. When nursing
194 staff in the emergency department are attending trauma patients,
195 there shall be a maximum of one patient assigned to each
196 registered nurse at any time.

197 (j) There shall be a maximum of three patients assigned to
198 each registered nurse in a step-down unit so that the minimum
199 registered nurse-to-patient ratio shall be 1:3 or fewer at any
200 time. As used in this paragraph, the term:

201 1. "Artificial life support" means a system that uses
202 medical technology to aid, support, or replace a vital function
203 of the body which has been seriously damaged.

204 2. "Step-down unit" means a unit that is organized,
205 operated, and maintained to provide for the monitoring and care
206 of patients with moderate or potentially severe physiologic
207 instability requiring technical support but not necessarily
208 artificial life support.



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209 3. "Technical support" means specialized equipment or
210 personnel, or both, providing for invasive monitoring,
211 telemetry, and mechanical ventilation, for the immediate
212 amelioration or remediation of severe pathology for those
213 patients requiring less care than intensive care but more than
214 that which is available from medical/surgical care.

215 (k) There shall be a maximum of three patients assigned to
216 each registered nurse so that the minimum registered nurse-to-
217 patient ratio in a telemetry unit shall be 1:3 or fewer at any
218 time. As used in this paragraph, the term "telemetry unit" means
219 a unit designated for the electronic monitoring, recording,
220 retrieval, and display of cardiac electrical signals.

221 (l) There shall be a maximum of four patients assigned to
222 each registered nurse so that the minimum registered nurse-to-
223 patient ratio in medical/surgical care units shall be 1:4 or
224 fewer at any time. A medical/surgical unit is a unit with beds
225 classified as medical/surgical in which patients who require
226 less care than that which is available in intensive care units
227 or step-down units receive 24-hour inpatient general medical
228 services, postsurgical services, or both general medical and
229 postsurgical services. Such a unit may include mixed patient
230 populations of diverse diagnoses and diverse age groups.

231 (m) There shall be a maximum of four patients assigned to
232 each registered nurse so that the minimum registered nurse-to-
233 patient ratio in a specialty care unit shall be 1:4 or fewer at
234 any time. A specialty care unit is a unit that is organized,
235 operated, and maintained to provide care for a specific medical
236 condition or a specific patient population, is more
237 comprehensive for the specific condition or disease process than



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238 that which is available on medical/surgical units, and is not
239 otherwise specifically covered in this section.

240 (n) There shall be a maximum of four patients assigned to
241 each registered nurse so that the minimum registered nurse-to-
242 patient ratio in an acute care psychiatric unit shall be 1:4 or
243 fewer at any time.

244 (o) Identifying a unit by a name or term other than those
245 used in this subsection does not affect the requirement to staff
246 at the ratios identified for the level or type of care described
247 in this subsection.

248 (2) STAFFING PLAN.--To ensure that it is staffed in a
249 manner that provides sufficient, appropriately qualified nursing
250 staff of each classification in each department or unit within
251 the facility in order to meet the individualized care needs of
252 the patients therein and to meet the requirements for registered
253 nurse staffing set forth in subsection (1), each health care
254 facility licensed under this statute shall annually submit to
255 the Agency for Health Care Administration a documented staffing
256 plan, together with a written certification that the staffing
257 plan is sufficient to provide adequate and appropriate delivery
258 of health care services to patients for the ensuing year. The
259 staffing plan must:

260 (a) Meet the minimum requirements set forth in subsection
261 (1);

262 (b) Be adequate to meet any additional requirements
263 provided by other laws or regulations;

264 (c) Employ and identify an approved acuity system for
265 addressing fluctuations in actual patient acuity levels and
266 nursing care requirements requiring increased staffing levels
267 above the minimums set forth in the plan;



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268 (d) Factor in other unit or department activity, such as
269 discharges, transfers and admissions, and administrative and
270 support tasks, which is expected to be done by direct-care
271 nurses in addition to direct nursing care;

272 (e) Identify the assessment tool used to validate the
273 acuity system relied on in the plan;

274 (f) Identify the system that will be used daily to
275 document actual staffing within each department or unit;

276 (g) Include a written assessment of the accuracy of the
277 previous year's staffing plan in light of actual staffing needs;

278 (h) Identify each nurse staff classification referenced
279 therein together with a statement setting forth minimum
280 qualifications for each such classification; and

281 (i) Be developed in consultation with the direct-care
282 nursing staff within each department or unit or, if such staff
283 is represented, with the applicable recognized or certified
284 collective-bargaining representatives of the direct-care nursing
285 staff.

286 (3) MINIMUM SKILL MIX.--The skill mix reflected in a
287 staffing plan must assure that all of the following elements of
288 the nursing process are performed in the planning and delivery
289 of care for each patient: assessment, nursing diagnosis,
290 planning, intervention, evaluation, and patient advocacy.

291 (a) The skill mix may not incorporate or assume that
292 nursing care functions required by licensing law or regulations
293 or accepted standards of practice to be performed by a
294 registered nurse or licensed practical nurse are to be performed
295 by unlicensed assistant personnel.

296 (b) A nurse may not be assigned, or included in the count
297 of assigned nursing staff for purposes of compliance with



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298 minimum staffing requirements, in a nursing department or unit
 299 or a clinical area within the health facility unless the nurse
 300 is qualified in the area of practice to which the nurse is
 301 assigned.

302 (4) COMPLIANCE WITH PLAN.--As a condition of licensing, a
 303 health care facility must at all times staff in accordance with
 304 its staffing plan and the staffing standards set forth in this
 305 section; however, this section does not preclude a health care
 306 facility's implementing higher direct-care nurse-to-patient
 307 staffing levels.

308 (5) RECORDKEEPING.--The facility shall maintain records
 309 sufficient to allow the agency to determine the daily staffing
 310 ratios and skill mixes that the facility maintained on each
 311 unit.

312 Section 5. Mandatory overtime and excessive duty hours.--

313 (1) PROHIBITION OF MANDATORY OVERTIME.--An employee of a
 314 health care facility may not be required to work overtime as
 315 defined in section 3 of this act. Compelling or attempting to
 316 compel an employee to work overtime is contrary to public policy
 317 and is a violation of this section. The acceptance by any
 318 employee of overtime work is strictly voluntary, and the refusal
 319 of an employee to accept such overtime work is not grounds for
 320 discrimination, dismissal, discharge, or any other penalty;
 321 threats of reports for discipline; or employment decisions
 322 adverse to the employee.

323 (2) APPLICABILITY.--This section does not apply to work
 324 that occurs:

325 (a) Because of any unforeseeable emergent circumstance;

326 (b) During prescheduled on-call time if, as of July 1,

327 2003, such prescheduled on-call time was a customary and



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328 longstanding practice in the unit or department of the health
329 care facility; or

330 (c) Because of unpredictable and unavoidable occurrences
331 relating to health care delivery which occur at unscheduled
332 intervals and require immediate action, if the employer shows
333 that the employer has exhausted reasonable efforts to obtain
334 staffing. An employer has not used reasonable efforts if
335 overtime work is used to fill vacancies resulting from chronic
336 staff shortages.

337 (3) This section does not prohibit a health care employee
338 from voluntarily working overtime.

339 Section 6. Employee rights.--

340 (1) RIGHT TO REFUSE ASSIGNMENT UNDER CONDITIONS THAT WOULD
341 VIOLATE STANDARDS.--A health facility covered by this act shall
342 not penalize, discriminate against, or retaliate in any manner
343 against a direct-care registered nurse for refusing an
344 assignment that would violate requirements set forth in this
345 act.

346 (2) RIGHT TO REPORT VIOLATIONS OF SAFE STAFFING
347 STANDARDS.--A health facility covered by this act shall not
348 penalize, discriminate against, or retaliate in any manner
349 against an employee with respect to compensation, terms, or
350 conditions or privileges of employment if such an employee in
351 good faith, individually or in conjunction with another person
352 or persons:

353 (a) Reports a violation or suspected violation of this act
354 to a public regulatory agency, a private accreditation body, or
355 management personnel of the health care facility;

356 (b) Initiates, cooperates, or otherwise participates in an
357 investigation or proceeding brought by a regulatory agency or



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358 private accreditation body concerning matters covered by this
359 act;

360 (c) Informs or discusses with other employees, with
361 representatives of the employees, with patients or patient
362 representatives, or with the public violations or suspected
363 violations of this act; or

364 (d) Otherwise avails himself or herself of the rights set
365 forth in this act.

366 (3) For purposes of this section, an employee is acting in
367 good faith if the employee reasonably believes that the
368 information reported or disclosed is true and that a violation
369 has occurred or may occur.

370 Section 7. Implementation and enforcement.--

371 (1) The Agency for Health Care Administration shall ensure
372 general compliance with the staffing plans and standards set
373 forth in this act. The agency may adopt such rules as are
374 necessary to implement this act. At a minimum, the rules must
375 provide for:

376 (a) Unannounced, random compliance site visits to licensed
377 health care facilities that are covered by the act;

378 (b) An accessible and confidential system by which the
379 public and nursing staff can report a health facility's failure
380 to comply with this act;

381 (c) A systematic means for investigating and correcting
382 violations of the act;

383 (d) A graduated system of penalties, including fines,
384 withholding of reimbursement, suspension of admission to
385 specific units, and other appropriate measures, if violations
386 are not corrected;



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387 (e) Public access to information regarding reports of
388 inspections, results, deficiencies, and corrections.

389 (2) The agency shall develop rules to administer this act
390 which require compliance with the staffing standards for
391 critical care units by July 1, 2004, and compliance with all
392 provisions of this act by July 1, 2006.

393 Section 8. This act shall take effect July 1, 2003.