

1 A bill to be entitled

2 An act relating to hospitals; providing legislative
3 findings; providing definitions; providing that
4 information concerning nursing care for patients be made
5 available to the public; providing for staffing schedules
6 and patterns; providing criteria for staffing schedules of
7 nursing personnel and a daily census for patient-care
8 units; requiring each hospital to make staffing levels and
9 schedules available to the public for a certain period of
10 time; requiring that records be made available to the
11 public upon request; requiring hospitals to provide
12 quarterly reports; requiring hospitals to provide the
13 Agency for Health Care Administration with certain
14 information regarding nursing personnel; requiring the
15 agency to make certain information regarding hospital
16 staff and operations available to the public on its
17 Internet website and upon request; providing criteria
18 governing the provision of such information; providing
19 rights for hospital employees; authorizing the agency to
20 inspect and audit certain books and records of a hospital;
21 providing a penalty for a hospital's refusal to file a
22 report, timely file a report, file a false report, file an
23 incomplete report, or produce certain requested documents
24 or records to the agency; authorizing the agency to grant
25 an extension of a deadline for a hospital to file a
26 report; providing an appropriation; providing an effective
27 date.
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29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. (1) SHORT TITLE.--This section may be cited as
32 the "Patients' Right-to-Know Act."

33 (2) LEGISLATIVE FINDINGS.--The Legislature finds that
34 consumers in this state have a right to obtain access to
35 information concerning the quality and safety of the health care
36 provided in hospitals in this state in order to make better
37 decisions about their choice of health care provider.

38 (3) DEFINITIONS.--As used in this section, the term:

39 (a) "Agency" means Agency for Health Care Administration.

40 (b) "Average daily census" means the average number of
41 inpatients receiving services in any given 24-hour period,
42 beginning at midnight, in each clinical service area of the
43 hospital.

44 (c) "Agency nurse" means any direct-care nurse who is not
45 directly employed by the hospital, who provides care in the
46 hospital, and who is working for purposes of providing
47 supplemental staffing in a hospital.

48 (d) "Direct-care nurse" means any registered nurse who has
49 direct responsibility to oversee or carry out medical regimens
50 or nursing care for one or more patients. A nurse administrator,
51 nurse supervisor, nurse educator, charge nurse, or other
52 registered nurse who does not have a specific patient assignment
53 may not be included in calculating the staffing level.

54 (e) "Hospital" means an acute care hospital that is
55 licensed under s. 395.003, Florida Statutes.

56 (f) "Nurse" means a registered nurse.

57 (g) "Nursing care" means care that falls within the scope
58 of practice set forth in chapter 464, Florida Statutes, and
59 other laws and rules or care that is otherwise encompassed
60 within recognized professional standards of nursing practice,
61 including assessment, nursing diagnosis, planning, intervention,
62 evaluation, and patient advocacy.

63 (h) "Retaliate" means to discipline, discharge, suspend,
64 demote, harass, deny employment or promotion, lay off, or take
65 any other adverse action against a direct-care nurse as a result
66 of that nurse taking any action described in this section.

67 (i) "Staffing level" means the actual numerical registered
68 nurse-to-patient ratio within a nursing department or unit.

69 (j) "Unit" means a functional division or area of a
70 hospital in which nursing care is provided.

71 (4) PUBLIC AVAILABILITY OF STAFFING LEVELS AND
72 SCHEDULES.-- (a) The number of registered professional
73 nurses, licensed practical nurses, and other nursing personnel
74 assigned to each patient-care unit shall be consistent with the
75 types of nursing care needed by the patients and the
76 capabilities of the staff. Patients on each unit shall be
77 evaluated near the end of each change of shift by criteria
78 developed by the hospital. There shall be staffing schedules
79 reflecting the actual nursing personnel required for the
80 hospital and for each patient unit. Staffing patterns must
81 reflect consideration of nursing goals, standards of nursing
82 practice, and the needs of the patients.

83 (b) The current staffing level and anticipated staffing
84 schedule shall be available upon request for each patient-care

85 unit for the effective date of that schedule. Each schedule must
86 list the assigned nursing personnel and the average daily census
87 for each patient-care unit. The hospital shall retain and make
88 available to the public the historic staffing level and
89 schedules for the prior 5 years.

90 (c) All records required under this section, including
91 anticipated staffing schedules and the methods to determine and
92 adjust staffing levels, shall be made available to the public
93 upon request.

94 (d) All records required under this section shall be
95 maintained by the facility for at least 5 years.

96 (5) HOSPITAL REPORTS.--Each hospital shall prepare a
97 quarterly report that includes the average daily staffing levels
98 by unit, the percentage of nursing hours that are completed by
99 agency nurses by unit, the number and description of OSHA
100 violations, the nurse vacancy rate, the nurse turnover rate, and
101 the number and description of complaints made to the Joint
102 Commission on Accreditation of Healthcare Organizations or to
103 the agency.

104 (6) HOSPITAL DATA.--

105 (a) Each hospital shall submit to the agency, in a format
106 designated by the agency and in accordance with the timetable
107 specified by the agency, a statistical profile of registered
108 nurses and other nurses employed by the hospital in patient
109 care, including the nurse-vacancy rate and nurse-turnover rate.
110 The agency shall make each hospital's statistical profile
111 available on its website by July 1, 2008, and in hard-copy
112 format upon request. The agency shall update the data made

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113 available pursuant to this paragraph annually.

114 (b) Using available data or data voluntarily submitted by
115 hospitals and used as indicators by the Joint Commission on
116 Accreditation of Healthcare Organizations, the agency shall make
117 available for each hospital, on its website by October 1, 2008,
118 and in a hard-copy format upon request, the average daily
119 staffing levels by unit; the percentage of nursing hours that
120 are completed by contract or agency nurses by unit, number, and
121 a description of OSHA violations; and the number and a
122 description of complaints. The website must also list each
123 hospital's system affiliations if the hospital is affiliated
124 with a nonprofit, for-profit, or public health care system or
125 corporation. The agency shall update the data made available
126 pursuant to this paragraph annually.

127 (c) The agency shall use available national standards when
128 designating the reporting format for the statistical profile
129 required by paragraph (a) and when making available the average
130 daily staffing levels by unit as required by paragraph (b). The
131 agency shall consult with the Comprehensive Health Information
132 System Advisory Council regarding the reporting format. The
133 agency shall calculate and make available the average daily
134 staffing levels by unit in a manner that health care research
135 has shown to have a significant effect on the quality of patient
136 care and patient outcomes.

137 (d) The agency shall ensure that the nurse staffing data
138 made available pursuant to paragraph (b) is risk-adjusted for
139 patient acuity using the risk-adjustment methodology described
140 in s. 408.061(1)(a), Florida Statutes, or an equivalent

141 methodology consistent with national standards employed by the
142 Agency for Healthcare Research and Quality. The agency shall
143 consult with the Comprehensive Health Information System
144 Advisory Council regarding the methodology for risk-adjusting
145 the patient acuity used to comply with this paragraph.

146 (7) EMPLOYEE RIGHTS.--

147 (a) A hospital may not penalize, discriminate against, or
148 retaliate in any manner against a direct-care nurse for refusing
149 an assignment that would violate requirements set forth in this
150 section.

151 (b) A hospital may not penalize, discriminate against, or
152 retaliate in any manner against an employee with respect to
153 compensation for, or terms, conditions, or privileges of,
154 employment if such an employee in good faith, individually or in
155 conjunction with another persons or persons:

156 1. Reports a violation or suspected violation of this
157 section to a regulatory agency, a private accreditation body, or
158 management personnel of the hospital;

159 2. Initiates, cooperates in, or otherwise participates in
160 an investigation or proceeding brought by a regulatory agency or
161 private accreditation body concerning matters covered by this
162 section;

163 3. Informs or discusses violations or suspected violations
164 of this section with other employees, with any representative of
165 the employees, with a patient or patient representative, or with
166 the public; or

167 4. Otherwise avails himself or herself of the rights set
168 forth in this section.

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170 For purposes of this paragraph, an employee is acting in good
171 faith if the employee reasonably believes that the information
172 reported or disclosed is true and that a violation has occurred
173 or may occur.

174 (8) IMPLEMENTATION AND ENFORCEMENT.--

175 (a) In order to ensure compliance with this section, the
176 agency may inspect and audit books and records of individual or
177 corporate hospitals, including books and records of related
178 organizations with which a health care provider or a hospital
179 has had transactions. Upon presentation of a written request for
180 inspection to a health care provider or a hospital by the agency
181 or its staff, the health care provider or the hospital shall
182 make available to the agency or its staff for inspection,
183 copying, and review all books and records relevant to the
184 determination of whether the health care provider or the
185 hospital has complied with this section.

186 (b) Any hospital that refuses to file a report, fails to
187 timely file a report, files a false report, or files an
188 incomplete report and, upon notification, fails to timely file a
189 complete report required under this section or a rule adopted
190 thereunder, or that fails to provide documents or records
191 requested by the agency under this section, shall be punished by
192 a fine not exceeding \$1,000 per day for each day in violation,
193 to be imposed and collected by the agency. Pursuant to rules
194 adopted by the agency, the agency may, upon a showing of good
195 cause, grant a one-time extension of any deadline for a hospital
196 to timely file a report as required by this section.

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197 Section 2. The sum of \$250,000 is appropriated from the
198 General Revenue Fund to the Agency for Health Care
199 Administration for the purpose of administering the provisions
200 of this act requiring the agency to collect, from hospitals or
201 other sources, information regarding the staffing or operation
202 of hospitals and to make such information available on its
203 website or upon request.

204 Section 3. This act shall take effect upon becoming a law.