

By Senator Braynon

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1                                   A bill to be entitled  
2           An act relating to health care; creating the "Florida  
3           Hospital Patient Protection Act"; providing  
4           legislative findings; providing definitions; providing  
5           minimum staffing level requirements for the ratio of  
6           direct care registered nurses to patients in a health  
7           care facility; requiring that each health care  
8           facility implement a staffing plan; prohibiting the  
9           imposition of mandatory overtime and certain other  
10          actions by a health care facility; specifying the  
11          required nurse-to-patient ratios for each type of care  
12          provided; prohibiting the use of video cameras or  
13          monitors by a health care facility as a substitute for  
14          the required level of care; requiring that the chief  
15          nursing officer of a health care facility prepare a  
16          written staffing plan that meets the staffing levels  
17          required by the act; requiring that a health care  
18          facility annually evaluate its actual staffing levels  
19          and update the staffing plan based on the evaluation;  
20          requiring that certain documentation be submitted to  
21          the Agency for Health Care Administration and made  
22          available for public inspection; requiring that the  
23          agency develop uniform standards for use by health  
24          care facilities in establishing nurse staffing  
25          requirements; providing requirements for the committee  
26          members who are appointed to develop the uniform  
27          standards; requiring health care facilities to  
28          annually report certain information to the agency and  
29          post a notice containing such information in each unit

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30 of the facility; prohibiting a health care facility  
31 from assigning unlicensed personnel to perform  
32 functions or tasks that are performed by a licensed or  
33 registered nurse; specifying those actions that  
34 constitute professional practice by a direct care  
35 registered nurse; requiring that patient assessment be  
36 performed only by a direct care registered nurse;  
37 authorizing a direct care registered nurse to assign  
38 certain specified activities to other licensed or  
39 unlicensed nursing staff; prohibiting a health care  
40 facility from deploying technology that limits certain  
41 care provided by a direct care registered nurse;  
42 providing that it is a duty and right of a direct care  
43 registered nurse to act as the patient's advocate;  
44 providing certain requirements with respect to such  
45 duty; authorizing a direct care registered nurse to  
46 refuse to perform certain activities if he or she  
47 determines that it is not in the best interests of the  
48 patient; providing that a direct care registered nurse  
49 may refuse to accept an assignment under certain  
50 circumstances; prohibiting a health care facility from  
51 discharging, discriminating, or retaliating against a  
52 nurse based on such refusal; providing that a direct  
53 care registered nurse has a right of action against a  
54 health care facility that violates certain provisions  
55 of the act; requiring that the Agency for Health Care  
56 Administration establish a toll-free telephone hotline  
57 to provide information and to receive reports of  
58 violations of the act; requiring that certain

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59 information be provided to each patient who is  
60 admitted to a health care facility; prohibiting a  
61 health care facility from interfering with the right  
62 of nurses to organize or bargain collectively;  
63 authorizing the agency to impose fines for violations  
64 of the act; requiring that the agency post in its  
65 website information regarding health care facilities  
66 that have violated the act; providing an effective  
67 date.

68  
69 Be It Enacted by the Legislature of the State of Florida:  
70

71 Section 1. Short title.—Sections 1 through 8 of this act  
72 may be cited as the “Florida Hospital Patient Protection Act.”

73 Section 2. Legislative findings.—The Legislature finds  
74 that:

75 (1) The state has a substantial interest in ensuring that,  
76 in the delivery of health care services to patients, health care  
77 facilities retain sufficient nursing staff so as to promote  
78 optimal health care outcomes.

79 (2) Health care services are becoming more complex and it  
80 is increasingly difficult for patients to access integrated  
81 services. Competent, safe, therapeutic, and effective patient  
82 care is jeopardized because of staffing changes implemented in  
83 response to market-driven managed care. To ensure effective  
84 protection of patients in acute care settings, it is essential  
85 that qualified direct care registered nurses be accessible and  
86 available to meet the individual needs of the patient at all  
87 times. In order to ensure the health and welfare of state

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88 residents and to ensure that hospital nursing care is provided  
89 in the exclusive interests of patients, mandatory practice  
90 standards and professional practice protections for professional  
91 direct care registered nursing staff must be established. Direct  
92 care registered nurses have a duty to care for assigned patients  
93 and a necessary duty of individual and collective patient  
94 advocacy in order to satisfy professional obligations.

95 (3) The basic principles of staffing in hospital settings  
96 should be based on the care needs of the individual patient, the  
97 severity of the patient's condition, the services needed, and  
98 the complexity surrounding those services. Current unsafe  
99 practices by hospital direct care registered nursing staff have  
100 resulted in adverse patient outcomes. Mandating the adoption of  
101 uniform, minimum, numerical, and specific registered nurse-to-  
102 patient staffing ratios by licensed hospital facilities is  
103 necessary for competent, safe, therapeutic, and effective  
104 professional nursing care and for the retention and recruitment  
105 of qualified direct care registered nurses.

106 (4) Direct care registered nurses must be able to advocate  
107 for their patients without fear of retaliation from their  
108 employer. Whistle-blower protections that encourage registered  
109 nurses and patients to notify governmental and private  
110 accreditation entities of suspected unsafe patient conditions,  
111 including protection against retaliation for refusing unsafe  
112 patient care assignments, will greatly enhance the health,  
113 welfare, and safety of patients.

114 (5) Direct care registered nurses have an irrevocable duty  
115 and right to advocate on behalf of their patients' interests,  
116 and this duty and right may not be encumbered by cost-saving

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117 schemes.

118 Section 3. Definitions.—As used in sections 1 through 8 of  
119 this act, the term:

120 (1) "Acuity-based patient classification system," "acuity  
121 system," or "patient classification system" means an established  
122 measurement tool that:

123 (a) Predicts registered nursing care requirements for  
124 individual patients based on the severity of patient illness,  
125 the need for specialized equipment and technology, the intensity  
126 of required nursing interventions, and the complexity of  
127 clinical nursing judgment required to design, implement, and  
128 evaluate the patient's nursing care plan consistent with  
129 professional standards, the ability for self-care, including  
130 motor, sensory, and cognitive deficits, and the need for  
131 advocacy intervention;

132 (b) Details the amount of nursing care needed and the  
133 additional number of direct care registered nurses and other  
134 licensed and unlicensed nursing staff that the hospital must  
135 assign, based on the independent professional judgment of the  
136 direct care registered nurse, in order to meet the individual  
137 patient needs at all times; and

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

140 (2) "Agency" means the Agency for Health Care  
141 Administration.

142 (3) "Ancillary support staff" means the personnel assigned  
143 to assist in providing nursing services in the delivery of safe,  
144 therapeutic, and effective patient care, including unit or ward  
145 clerks and secretaries, clinical technicians, respiratory

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146 therapists, and radiology, laboratory, housekeeping, and dietary  
147 personnel.

148 (4) "Clinical judgment" means the application of the direct  
149 care registered nurse's knowledge, skill, expertise, and  
150 experience in making independent decisions about patient care.

151 (5) "Clinical supervision" means the assignment and  
152 direction of patient care tasks required in the implementation  
153 of nursing care for patients to other licensed nursing staff or  
154 to unlicensed staff by a direct care registered nurse in the  
155 exclusive interests of the patients.

156 (6) "Competence" means the ability of the direct care  
157 registered nurse to act and integrate the knowledge, skills,  
158 abilities, and independent professional judgment that underpin  
159 safe, therapeutic, and effective patient care. Current  
160 documented, demonstrated, and validated competency is required  
161 for all direct care registered nurses and must be determined  
162 based on the satisfactory performance of:

163 (a) The statutorily recognized duties and responsibilities  
164 of the registered nurses, as set forth in chapter 464, Florida  
165 Statutes, and rules adopted thereunder; and

166 (b) The standards required under sections 4 and 5 of this  
167 act, which are specific to each hospital unit.

168 (7) "Declared state of emergency" means an officially  
169 designated state of emergency which has been declared by a  
170 federal, state, or local government official who has the  
171 authority to declare the state of emergency. The term does not  
172 include a state of emergency which results from a labor dispute  
173 in the health care industry.

174 (8) "Direct care registered nurse" means a licensed nurse

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175 who has documented clinical competence and who has accepted a  
176 direct, hands-on patient care assignment to implement medical  
177 and nursing regimens and provide related clinical supervision of  
178 patient care while exercising independent professional judgment  
179 at all times in the exclusive interest of the patient.

180 (9) "Health care facility" means an acute care hospital; an  
181 emergency care, ambulatory, or outpatient surgery facility  
182 licensed under chapter 395, Florida Statutes; or a psychiatric  
183 facility licensed under chapter 394, Florida Statutes, including  
184 a critical access and long-term acute care hospital.

185 (10) "Hospital unit" or "clinical patient care area" means  
186 an intensive care or critical care unit, burn unit, labor and  
187 delivery room, antepartum and postpartum unit, newborn nursery,  
188 postanesthesia service area, emergency department, operating  
189 room, pediatric unit, step-down or intermediate care unit,  
190 specialty care unit, telemetry unit, general medical or surgical  
191 care unit, psychiatric unit, rehabilitation unit, or skilled  
192 nursing facility unit, and as further defined in this  
193 subsection.

194 (a) "Critical care unit" or "intensive care unit" means a  
195 nursing unit of an acute care hospital which is established to  
196 safeguard and protect patients whose severity of medical  
197 conditions require continuous monitoring and complex  
198 interventions by direct care registered nurses and whose  
199 restorative measures and level of nursing intensity requires  
200 intensive care through direct observation by the direct care  
201 registered nurse, complex monitoring, intensive intricate  
202 assessment, evaluation, specialized rapid intervention, and  
203 education or teaching of the patient, the patient's family, or

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204 other representatives by a competent and experienced direct care  
205 registered nurse. The term includes an intensive care unit, a  
206 burn center, a coronary care unit, or an acute respiratory unit.

207 (b) "Step-down unit" or "intermediate intensive care unit"  
208 means a unit established to safeguard and protect patients whose  
209 severity of illness, including all co-occurring morbidities,  
210 restorative measures, and level of nursing intensity, requires  
211 intermediate intensive care through direct observation by the  
212 direct care registered nurse, monitoring, multiple assessments,  
213 specialized interventions, evaluations, and education or  
214 teaching of the patient's family or other representatives by a  
215 competent and experienced direct care registered nurse. The term  
216 includes units established to provide care to patients who have  
217 moderate or potentially severe physiologic instability requiring  
218 technical support but not necessarily artificial life support.  
219 The term "artificial life support" means a system that uses  
220 medical technology to aid, support, or replace a vital function  
221 of the body that has been seriously damaged. The term "technical  
222 support" means the use of specialized equipment by direct care  
223 registered nurses in providing for invasive monitoring,  
224 telemetry, and mechanical ventilation for the immediate  
225 amelioration or remediation of severe pathology for those  
226 patients requiring less care than intensive care, but more than  
227 that which is required from medical or surgical care.

228 (c) "Medical or surgical unit" means a unit established to  
229 safeguard and protect patients whose severity of illness,  
230 including all co-occurring morbidities, restorative measures,  
231 and level of nursing intensity requires continuous care through  
232 direct observation by the direct care registered nurse,



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233 monitoring, multiple assessments, specialized interventions,  
234 evaluations, and education or teaching of the patient's family  
235 or other representatives by a competent and experienced direct  
236 care registered nurse. These units may include patients  
237 requiring less than intensive care or step-down care; patients  
238 receiving 24-hour inpatient general medical care, post-surgical  
239 care, or both general medical and post-surgical care; and mixed  
240 patient populations of diverse diagnoses and diverse age groups,  
241 but excluding pediatric patients.

242 (d) "Telemetry unit" means a unit that is established to  
243 safeguard and protect patients whose severity of illness,  
244 including all co-occurring morbidities, restorative measures,  
245 and level of nursing intensity, requires intermediate intensive  
246 care through direct observation by the direct care registered  
247 nurse, monitoring, multiple assessments, specialized  
248 interventions, evaluations, and education or teaching of the  
249 patient's family or other representatives by a competent and  
250 experienced direct care registered nurse. A telemetry unit  
251 includes the equipment used to provide for the electronic  
252 monitoring, recording, retrieval, and display of cardiac  
253 electrical signals.

254 (e) "Specialty care unit" means a unit that is established  
255 to safeguard and protect patients whose severity of illness,  
256 including all co-occurring morbidities, restorative measures,  
257 and level of nursing intensity, requires continuous care through  
258 direct observation by the direct care registered nurse,  
259 monitoring, multiple assessments, specialized interventions,  
260 evaluations, and education or teaching of the patient's family  
261 or other representatives by a competent and experienced direct

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262 care registered nurse. The term includes a unit established to  
263 provide the intensity of care required for a specific medical  
264 condition or a specific patient population or to provide more  
265 comprehensive care for a specific condition or disease process  
266 than that which is required on medical or surgical units, and  
267 includes those units not otherwise covered by the definitions in  
268 this section.

269 (f) "Rehabilitation unit" means a functional clinical unit  
270 for the provision of those rehabilitation services that restore  
271 an ill or injured patient to the highest level of self-  
272 sufficiency or gainful employment of which he or she is capable  
273 in the shortest possible time, compatible with the patient's  
274 physical, intellectual, and emotional or psychological  
275 capabilities, and in accord with planned goals and objectives.

276 (g) "Skilled nursing facility" means a functional clinical  
277 unit for the provision of skilled nursing care and supportive  
278 care to patients whose primary need is for skilled nursing care  
279 on a long-term basis and who are admitted after at least a 48-  
280 hour period of continuous inpatient care. The term includes, but  
281 need not be limited to, medical, nursing, dietary, and  
282 pharmaceutical services and activity programs.

283 (11) "Licensed nurse" means a registered nurse or a  
284 licensed practical nurse, as defined in s. 464.003, Florida  
285 Statutes, who is licensed by the Board of Nursing to engage in  
286 the practice of professional nursing or the practice of  
287 practical nursing, as defined in s. 464.003, Florida Statutes.

288 (12) "Long-term acute care hospital" means any hospital or  
289 health care facility that specializes in providing long-term  
290 acute care to medically complex patients. The term includes

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291 freestanding and hospital-within-hospital models of long-term  
292 acute care facilities.

293 (13) "Overtime" means the hours worked in excess of:

294 (a) An agreed-upon, predetermined, regularly scheduled  
295 shift;

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

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

298 (14) "Patient assessment" means the use of critical  
299 thinking by a direct care licensed nurse and is the  
300 intellectually disciplined process of actively and skillfully  
301 interpreting, applying, analyzing, synthesizing, or evaluating  
302 data obtained through the direct observation and communication  
303 with others.

304 (15) "Professional judgment" means the intellectual,  
305 educated, informed, and experienced process that the direct care  
306 registered nurse exercises in forming an opinion and reaching a  
307 clinical decision that is in the patient's best interest and is  
308 based upon analysis of data, information, and scientific  
309 evidence.

310 (16) "Skill mix" means the differences in licensing,  
311 specialty, and experience among direct care registered nurses.

312 (17) "Staffing level" means the actual numerical registered  
313 nurse-to-patient ratio within a nursing department, unit, or  
314 clinical patient care area.

315 Section 4. Minimum direct care registered nurse-to-patient  
316 staffing requirements.-

317 (1) Each health care facility shall implement a staffing  
318 plan that provides for minimum staffing by direct care  
319 registered nurses in accordance with the general requirements

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320 set forth in this section and the clinical unit direct care  
321 registered nurse-to-patient ratios specified in subsection (2).  
322 Staffing for patient care tasks not requiring a direct care  
323 registered nurse is not included within these ratios and shall  
324 be determined pursuant to an acuity-based patient classification  
325 system defined by agency rule.

326 (a) A health care facility may not assign a direct care  
327 registered nurse to a nursing unit or clinical area unless that  
328 health care facility and the direct care registered nurse  
329 determine that she or he has demonstrated and validated current  
330 competence in providing care in that area and has also received  
331 orientation to that clinical area which is sufficient to provide  
332 competent, safe, therapeutic, and effective care to patients in  
333 that area. The policies and procedures of the health care  
334 facility must contain the criteria for making this  
335 determination.

336 (b) Direct care registered nurse-to-patient ratios  
337 represent the maximum number of patients that shall be assigned  
338 to one direct care registered nurse at all times.

339 (c) "Assigned" means the direct care registered nurse has  
340 responsibility for the provision of care to a particular patient  
341 within her or his validated competency.

342 (d)1. A health care facility may not average the number of  
343 patients and the total number of direct care registered nurses  
344 assigned to patients in a clinical unit during any one shift or  
345 over any period of time for purposes of meeting the requirements  
346 under this section.

347 2. A health care facility may not impose mandatory overtime  
348 requirements in order to meet the hospital unit direct care

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349 registered nurse-to-patient ratios required under this section.

350 3. A health care facility shall ensure that only a direct  
351 care registered nurse may relieve another direct care registered  
352 nurse during breaks, meals, and routine absences from a clinical  
353 unit.

354 4. A health care facility may not impose layoffs of  
355 licensed practical nurses, licensed psychiatric technicians,  
356 certified nursing assistants, or other ancillary support staff  
357 in order to meet the clinical unit direct care registered nurse-  
358 to-patient ratios required in this section.

359 (e) Only direct care registered nurses shall be assigned to  
360 intensive care newborn nursery service units, which specifically  
361 require one direct care registered nurse to two or fewer infants  
362 at all times.

363 (f) Only direct care registered nurses shall be assigned to  
364 triage patients and only direct care registered nurses shall be  
365 assigned to critical trauma patients.

366 1. The direct care registered nurse-to-patient ratio for  
367 critical care patients in the emergency department shall be 1 to  
368 2 or fewer at all times.

369 2. No fewer than two direct care registered nurses must be  
370 physically present in the emergency department when a patient is  
371 present.

372 3. Triage, radio, specialty, or flight-registered nurses do  
373 not count in the calculation of direct care registered nurse-to-  
374 patient ratios.

375 4. Triage-registered nurses may not be assigned the  
376 responsibility of the base radio.

377 (g) In the labor and delivery unit, the direct care

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378 registered nurse-to-patient ratio shall be 1 to 1 for active  
379 labor patients and patients having medical or obstetrical  
380 complications, during the initiation of epidural anesthesia, and  
381 during circulation for cesarean delivery.

382 1. The direct care registered nurse-to-patient ratio for  
383 antepartum patients who are not in active labor shall be 1 to 3  
384 or fewer at all times.

385 2. In the event of cesarean delivery, the total number of  
386 mothers plus infants assigned to a single direct care registered  
387 nurse may not exceed four.

388 3. In the event of multiple births, the total number of  
389 mothers plus infants assigned to a single direct care registered  
390 nurse may not exceed six.

391 4. For postpartum areas in which the direct care registered  
392 nurse's assignment consists of mothers only, the direct care  
393 registered nurse-to-patient ratio shall be 1 to 4 or fewer at  
394 all times.

395 5. The direct care registered nurse-to-patient ratio for  
396 postpartum women or postsurgical gynecological patients only  
397 shall be 1 to 4 or fewer at all times.

398 6. The direct care registered nurse-to-patient ratio for  
399 the well-baby nursery shall be 1 to 5 at all times.

400 7. The direct care registered nurse-to-patient ratio for  
401 unstable newborns and those in the resuscitation period as  
402 assessed by the direct care registered nurse shall be 1 to 1 at  
403 all times.

404 8. The direct care registered nurse-to-patient ratio for  
405 recently born infants shall be 1 to 4 or fewer at all times.

406 (h) The direct care registered nurse-to-patient ratio for

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407 patients receiving conscious sedation shall be 1 to 1 or fewer  
408 at all times.

409 (2) A health care facility's staffing plan shall provide  
410 that, at all times during each shift within a unit of the  
411 facility, a direct care registered nurse is assigned to not more  
412 than the following number of patients in that unit:

413 (a) One patient in trauma emergency units.

414 (b) One patient in operating room units. The operating room  
415 shall have at least one direct care registered nurse assigned to  
416 the duties of the circulating registered nurse and a minimum of  
417 one additional person as a scrub assistant for each patient-  
418 occupied operating room.

419 (c) Two patients in critical care units, including neonatal  
420 intensive care units, emergency critical care and intensive care  
421 units, labor and delivery units, coronary care units, acute  
422 respiratory care units, postanesthesia units regardless of the  
423 type of anesthesia received, burn units, and immediate  
424 postpartum patients, so that the direct-care registered nurse-  
425 to-patient ratio is 1 to 2 at all times.

426 (d) Three patients in the emergency room units, step-down  
427 or intermediate intensive care units, pediatrics units,  
428 telemetry units, and combined labor, delivery, and postpartum  
429 units, so that the direct care registered nurse-to-patient  
430 ratios is 1 to 3 or fewer at all times.

431 (e) Four patients in medical-surgical units, antepartum  
432 units, intermediate care nursery units, psychiatric units, and  
433 presurgical and other specialty care units, so that the direct  
434 care registered nurse-to-patient ratio is 1 to 4 or fewer at all  
435 times.

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436 (f) Five patients in rehabilitation units and skilled  
437 nursing units, so that the direct care registered nurse-to-  
438 patient ratio is 1 to 5 or fewer at all times.

439 (g) Six patients in well-baby nursery units, so that the  
440 direct care registered nurse-to-patient ratio is 1 to 6 or fewer  
441 at all times.

442 (h) Three couplets in postpartum units, so that the direct  
443 care registered nurse-to-patient ratio is 1 to 3 couplets or  
444 fewer at all times.

445 (3) (a) Identifying a unit or clinical patient care area by  
446 a name or term other than those defined in section 3 of this act  
447 does not affect the requirement to provide for staff at the  
448 direct care registered nurse-to-patient ratios identified for  
449 the level of intensity or type of care described in subsections  
450 (1) and (2).

451 (b) Patients shall be cared for only on units or clinical  
452 patient care areas where the level of intensity, type of care,  
453 and direct care registered nurse-to-patients ratios meet the  
454 individual requirements and needs of each patient. The use of  
455 patient acuity-adjustable units is strictly prohibited.

456 (c) Video cameras or monitors or any form of electronic  
457 visualization of a patient may not be substituted for the direct  
458 observation required for patient assessment by the direct care  
459 registered nurse and for patient protection required by an  
460 attendant.

461 (4) The requirements established under this section do not  
462 apply during a declared state of emergency if a health care  
463 facility is requested or expected to provide an exceptional  
464 level of emergency or other medical services.



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465       (5) (a) A written staffing plan shall be developed by the  
466 chief nursing officer or a designee, based on individual patient  
467 care needs determined by the patient classification system. The  
468 staffing plan shall be developed and implemented for each  
469 patient care unit and must specify individual patient care  
470 requirements and the staffing levels for direct care registered  
471 nurses and other licensed and unlicensed personnel. In no case  
472 shall the staffing level for direct care registered nurses on  
473 any shifts fall below the requirements of subsections (1) and  
474 (2).

475       (b) In addition to the direct care registered nurse-ratio  
476 requirements of subsections (1) and (2), each health care  
477 facility shall assign additional nursing staff, such as licensed  
478 practical nurses, licensed psychiatric technicians, and  
479 certified nursing assistants, through the implementation of a  
480 valid patient classification system for determining nursing care  
481 needs of individual patients which reflects the assessment made  
482 by the assigned direct care registered nurse of patient nursing  
483 care requirements and which provides for shift-by-shift staffing  
484 based on those requirements. The ratios specified in subsections  
485 (1) and (2) constitute the minimum number of registered nurses  
486 who shall be assigned to provide direct patient care.

487       (c) In developing the staffing plan, a health care facility  
488 shall provide for direct care registered nurse-to-patient ratios  
489 above the minimum ratios required under subsections (1) and (2)  
490 based upon consideration of the following factors:

491           1. The number of patients and acuity level of patients as  
492 determined by the application of an acuity system on a shift-by-  
493 shift basis.

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494 2. The anticipated admissions, discharges, and transfers of  
495 patients during each shift which affect direct patient care.

496 3. Specialized experience required of direct care  
497 registered nurses on a particular unit.

498 4. Staffing levels and services provided by other health  
499 care personnel in meeting direct patient care needs that do not  
500 require care by a direct care registered nurse.

501 5. The efficacy of technology that is available and that  
502 affects the delivery of direct patient care.

503 6. The level of familiarity with hospital practices,  
504 policies, and procedures by temporary agency direct care  
505 registered nurses who are assigned during a shift.

506 7. Obstacles to efficiency in the delivery of patient care  
507 which is caused by the physical layout of the health care  
508 facility.

509 (d) A health care facility shall specify the system used to  
510 document actual staffing in each unit for each shift.

511 (e) A health care facility shall annually evaluate:

512 1. The reliability of the patient classification system for  
513 validating staffing requirements in order to determine whether  
514 the system accurately measures individual patient care needs and  
515 accurately predicts the staffing requirements for direct care  
516 registered nurses, licensed practical nurses, licensed  
517 psychiatric technicians, and certified nursing assistants, based  
518 exclusively on individual patient needs.

519 2. The validity of the acuity-based patient classification  
520 system.

521 (f) A health care facility shall update its staffing plan  
522 and acuity system to the extent appropriate based on the annual

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523 evaluation. If the review reveals that adjustments are necessary  
524 in order to ensure accuracy in measuring patient care needs,  
525 such adjustments must be implemented within 30 days after that  
526 determination.

527 (g)1. Any acuity-based patient classification system  
528 adopted by a health care facility under this section shall be  
529 transparent in all respects, including disclosure of detailed  
530 documentation of the methodology used to predict nursing  
531 staffing; an identification of each factor, assumption, and  
532 value used in applying such methodology; an explanation of the  
533 scientific and empirical basis for each such assumption and  
534 value; and certification by a knowledgeable and authorized  
535 representative of the health care facility that the disclosures  
536 regarding methods used for testing and validating the accuracy  
537 and reliability of the system are true and complete.

538 2. The documentation required by this section shall be  
539 submitted in its entirety to the Agency for Health Care  
540 Administration as a mandatory condition of licensure, with a  
541 certification by the chief nurse officer for the health care  
542 facility that it completely and accurately reflects  
543 implementation of a valid acuity-based patient classification  
544 system used to determine nursing service staffing by the  
545 facility for every shift on every clinical unit in which  
546 patients reside and receive care. The certification shall be  
547 executed by the chief nurse officer under penalty of perjury and  
548 must contain an expressed acknowledgement that any false  
549 statement in the certification constitutes fraud and is subject  
550 to criminal and civil prosecution and penalties.

551 3. Such documentation shall be available for public

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552 inspection in its entirety in accordance with procedures  
553 established by appropriate administrative rules adopted by the  
554 Agency for Health Care Administration, consistent with the  
555 purposes of this act.

556 (h)1. A staffing plan of a health care facility shall be  
557 developed and evaluated by a committee. At least one-half of the  
558 members of the committee shall be unit-specific competent direct  
559 care registered nurses who provide direct patient care.

560 2. The members of the committee shall be appointed by the  
561 chief nurse officer, except at a facility where direct care  
562 registered nurses are represented for collective bargaining  
563 purposes. All direct care registered nurses on the committee  
564 shall be appointed by the authorized collective bargaining  
565 agent. In case of a dispute, the direct care registered nurse  
566 assessment shall prevail. This act does not authorize conduct  
567 that is prohibited under the National Labor Relations Act or  
568 under the Federal Labor Relations Act.

569 (i)1. By July 1, 2013, the Agency for Health Care  
570 Administration shall develop uniform statewide standards for a  
571 standardized acuity tool for use in health care facilities which  
572 provides a method for establishing nurse staffing requirements  
573 that exceed the hospital unit or clinical patient care area  
574 direct care registered nurse-to-patient ratios required under  
575 subsections (1) and (2).

576 2. Proposed standards shall be developed by a committee  
577 composed of not more than 20 individuals, at least 11 of whom  
578 must be currently licensed registered nurses who are employed as  
579 direct care registered nurses, and the remaining 9 must include  
580 a sufficient number of technical or scientific experts in the

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581 specialized fields involved in the design and development of a  
582 patient classification system that meets the requirements of  
583 this act.

584 3. A person who has any employment, commercial,  
585 proprietary, financial, or other personal interest in the  
586 development, marketing, or use of any private patient  
587 classification system product or related methodology,  
588 technology, or component system is not eligible to serve on the  
589 development committee. A candidate for appointment to the  
590 development committee may not be confirmed as a member until the  
591 individual files a disclosure-of-interest statement with the  
592 agency, along with a signed certification of full disclosure and  
593 complete accuracy under oath, which provides all necessary  
594 information as determined by the agency to demonstrate the  
595 absence of actual or potential conflict of interest. All such  
596 filings are subject to public inspection.

597 4. Within 1 year after the official commencement of  
598 committee operations, the development committee shall provide a  
599 written report to the agency which proposes uniform standards  
600 for a valid patient classification system, along with sufficient  
601 explanation and justification to allow for competent review and  
602 determination of sufficiency by the agency. The report shall be  
603 disclosed to the public upon notice of public hearings and a  
604 public comment period for proposed adoption of uniform standards  
605 for a patient classification system by the agency.

606 (j) Each hospital shall adopt and implement the patient  
607 classification system and provide staffing based on such tool.  
608 Any additional direct care registered nursing staffing levels  
609 that exceed the direct care registered nurse-to-patient ratios

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610 described in subsections (1) and (2) shall be assigned in a  
611 manner determined by such statewide tool.

612 (k) A health care facility shall submit to the agency its  
613 staffing plan and annual update required under this section.

614 (6) (a) In each unit, a health care facility shall post a  
615 uniform notice in a form specified by the agency by rule which:

616 1. Explains the requirements imposed under this section;

617 2. Includes actual direct care registered nurse-to-patient  
618 ratios during each shift;

619 3. Is visible, conspicuous, and accessible to staff,  
620 patients, and the public;

621 4. Identifies staffing requirements as determined by the  
622 patient classification system for each unit, documented and  
623 posted on the unit for public view on a day-to-day, shift-by-  
624 shift basis;

625 5. Reports the actual number of staff and the staff mix,  
626 documented and posted on the unit for public view on a day-to-  
627 day, shift-by-shift basis; and

628 6. Reports the variance between the required and actual  
629 staffing patterns, documented and posted on the unit for public  
630 view on a day-to-day, shift-by-shift basis.

631 (b)1. Each acute care facility shall maintain accurate  
632 records of actual direct care registered nurse-to-patient ratios  
633 in each unit for each shift for at least 2 years. Such records  
634 shall include:

635 a. The number of patients in each unit;

636 b. The identity and duty hours of each direct care  
637 registered nurse, licensed practical nurse, licensed psychiatric  
638 technician, and certified nursing assistant assigned to each

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639 patient in each unit in each shift. The hospital shall retain  
640 the record for 2 years; and  
641 c. A copy of each posted notice.  
642 2. Each hospital shall make its records maintained under  
643 the requirements of this section available to:  
644 a. The agency;  
645 b. Registered nurses and their collective bargaining  
646 representatives, if any; and  
647 c. The public under rules adopted by the agency.  
648 (c) The agency shall conduct periodic audits to ensure:  
649 1. Implementation of the staffing plan in accordance with  
650 this section; and  
651 2. Accuracy in records maintained under this section.  
652 (7) Acute care facilities shall plan for routine  
653 fluctuations such as admissions, discharges, and transfers in  
654 the patient census. If a declared health care emergency causes a  
655 change in the number of patients on a unit, the hospital must  
656 demonstrate that immediate and diligent efforts were made to  
657 maintain required staffing levels.  
658 (8) The following activities are prohibited:  
659 (a) A health care facility may not directly assign any  
660 unlicensed personnel to perform registered-nurse functions in  
661 lieu of care being delivered by a licensed or registered nurse,  
662 and may not assign unlicensed personnel to perform registered-  
663 nurse functions under the clinical supervision of a direct care  
664 registered nurse.  
665 (b) Unlicensed personnel may not perform tasks that require  
666 the clinical assessment, judgment, and skill of a licensed  
667 registered nurse, including, without limitation, nursing

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668 activities that require nursing assessment and judgment during  
669 implementation; physical, psychological, or social assessments  
670 that require nursing judgment, intervention, referral, or  
671 followup; formulation of a plan of nursing care and an  
672 evaluation of a patient's response to the care provided,  
673 including administration of medication, venipuncture or  
674 intravenous therapy, parenteral or tube feedings, invasive  
675 procedures, including inserting nasogastric tubes, inserting  
676 catheters, or tracheal suctioning, educating patients and their  
677 families concerning the patient's health care problems,  
678 including postdischarge care, with the exception that only  
679 phlebotomists, emergency room technicians, and medical  
680 technicians, under the general supervision of the clinical  
681 laboratory director or designee or a physician, may perform  
682 venipunctures in accordance with written hospital policies and  
683 procedures.

684 Section 5. Professional practice standards for direct care  
685 registered nurses working in a health care facility.-

686 (1) A direct care registered nurse, currently licensed to  
687 practice as a registered nurse, employing scientific knowledge  
688 and experience in the physical, social, and biological sciences,  
689 and exercising independent judgment in applying the nursing  
690 process, shall directly provide:

691 (a) Continuous and ongoing assessments of the patient's  
692 condition based upon the independent professional judgment of  
693 the direct care registered nurse.

694 (b) The planning, clinical supervision, implementation, and  
695 evaluation of the nursing care provided to each patient.

696 (c) The assessment, planning, implementation, and



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697 evaluation of patient education, including ongoing discharge  
698 teaching of each patient.

699 (d) The planning and delivery of patient care, which shall  
700 reflect all elements of the nursing process and shall include  
701 assessment, nursing diagnosis, planning, intervention,  
702 evaluation, and, as circumstances require, patient advocacy, and  
703 shall be initiated by a direct care registered nurse at the time  
704 of admission.

705 (e) The nursing plan for the patient's care, which shall be  
706 discussed with and developed as a result of coordination with  
707 the patient, the patient's family, or other representatives,  
708 when appropriate, and staff of other disciplines involved in the  
709 care of the patient.

710 (f) An evaluation of the effectiveness of the care plan  
711 through assessments based on direct observation of the patient's  
712 physical condition and behavior, signs and symptoms of illness,  
713 and reactions to treatment and through communication with the  
714 patient and the health care team members, and shall modify the  
715 plan as needed.

716 (g) Information related to the patient's initial assessment  
717 and reassessments, nursing diagnosis, plan, intervention,  
718 evaluation, and patient advocacy, which shall be permanently  
719 recorded in the patient's medical record as narrative direct  
720 care progress notes. The practice of charting by exception is  
721 expressly prohibited.

722 (2) (a) Patient assessment requires direct observation of  
723 the patient's signs and symptoms of illness, reaction to  
724 treatment, behavior and physical condition, and interpretation  
725 of information obtained from the patient and others, including

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726 other caregivers on the health team. Assessment requires data  
727 collection by the direct care registered nurse and the analysis,  
728 synthesis, and evaluation of such data.

729 (b) Only direct care registered nurses are authorized to  
730 perform patient assessments. A licensed practical nurse or  
731 licensed psychiatric technician may assist direct care  
732 registered nurses in data collection.

733 (3) (a) The nursing care needs of individual patients shall  
734 be determined by a direct care registered nurse through the  
735 process of ongoing patient assessments, nursing diagnosis,  
736 formulation, and adjustment of nursing care plans.

737 (b) The prediction of individual patient nursing care needs  
738 for prospective assignment of direct care registered nurses  
739 shall be based on individual patient assessments of the direct  
740 care registered nurse assigned to each patient and in accordance  
741 with a documented patient classification system as provided in  
742 subsections (1) and (2) of section 4 of this act.

743 (4) (a) Competent performance of the essential functions of  
744 a direct care registered nurse as provided in this section  
745 requires the exercise of independent judgment in the interests  
746 of the patient. The exercise of such independent judgment,  
747 unencumbered by the commercial or revenue-generation priorities  
748 of a hospital or employing entity of a direct care registered  
749 nurse, is essential to safe nursing care.

750 (b) The exercise of independent judgment by a direct care  
751 registered nurse in the performance of the functions described  
752 in this section shall be provided in the exclusive interests of  
753 the patient and may not, for any purpose, be considered, relied  
754 upon, or represented as a job function, authority,

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755 responsibility, or activity undertaken in any respect for the  
756 purpose of serving the business, commercial, operational, or  
757 other institutional interests of the hospital employer.

758 (5) (a) In addition to the limitations on assignments of  
759 patient care tasks provided in subsection (8) of section 4 of  
760 this act, a direct care registered nurse who is responsible for  
761 a patient may assign tasks required in the implementation of  
762 nursing care for that patient to other licensed nursing staff or  
763 to unlicensed staff only if the assigning direct care registered  
764 nurse:

765 1. Determines that the personnel assigned the tasks possess  
766 the necessary training, experience, and capability to  
767 competently and safely perform the tasks to be assigned; and

768 2. Effectively supervises the clinical functions and  
769 nursing care tasks performed by the assigned personnel.

770 (b) The exercise of clinical supervision of nursing care  
771 personnel by a direct care registered nurse in the performance  
772 of the functions as provided in this section shall be in the  
773 exclusive interests of the patient and may not, for any purpose  
774 whatsoever, be considered, relied upon, or represented as a job  
775 function, authority, responsibility, or activity undertaken in  
776 any respect for the purpose of serving the business, commercial,  
777 operational, or other institutional interests of the hospital  
778 employer, but constitutes the exercise of professional nursing  
779 authority and duty exclusively in the interests of the patient.

780 (6) A health care facility may not engage in the deployment  
781 of technology that limits the direct care provided by a direct  
782 care registered nurse in the performance of functions that are  
783 part of the nursing process, including the full exercise of

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784 independent clinical judgment in the assessment, planning,  
785 implementation, and evaluation of care, or that limits a direct  
786 registered nurse from acting as a patient advocate in the  
787 exclusive interest of the patient. Technology may not be skill  
788 degrading, interfere with the direct care registered nurse's  
789 provision of individualized patient care, override the direct  
790 care registered nurse's independent professional judgment, or  
791 interfere with the registered nurse's right to advocate in the  
792 exclusive interest of the patient.

793 (7) This section applies only to nurses employed by or  
794 providing care in a health care facility.

795 Section 6. Direct care registered nurse's duty and right of  
796 patient advocacy.-

797 (1) By virtue of their professional license and ethical  
798 obligations, all direct care registered nurses have a duty and  
799 right to act and provide care in the exclusive interests of the  
800 patient and to act as the patient's advocate, as circumstances  
801 require, in accordance with this section.

802 (2) The direct care registered nurse is always responsible  
803 for providing competent, safe, therapeutic, and effective  
804 nursing care to assigned patients.

805 (a) Before accepting a patient assignment, a direct care  
806 registered nurse must have the necessary knowledge, judgment,  
807 skills, and ability to provide the required care. It is the  
808 responsibility of the direct care registered nurse to determine  
809 whether she or he is clinically competent to perform the nursing  
810 care required by patients in a particular clinical unit or who  
811 have a particular diagnosis, condition, prognosis, or other  
812 determinative characteristic of nursing care, and whether

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813 acceptance of a patient assignment would expose the patient to  
814 the risk of harm.

815 (b) If the direct care registered nurse is not clinically  
816 competent to perform the care required for a patient assigned  
817 for nursing care, or if the assignment would expose the patient  
818 to risk of harm, the direct care registered nurse may not accept  
819 the patient care assignment. Such refusal to accept a patient  
820 care assignment is an exercise of the direct care registered  
821 nurse's duty and right of patient advocacy.

822 (3) In the course of performing the responsibilities and  
823 essential functions described in section 5 of this act and this  
824 section, the direct care registered nurse assigned to a patient  
825 receives orders initiated by physicians and other legally  
826 authorized health care professionals within their scope of  
827 licensure regarding patient care services to be provided to the  
828 patient, including, without limitation, the administration of  
829 medications and therapeutic agents that are necessary to  
830 implement a treatment, disease prevention, or rehabilitative  
831 regimen.

832 (a) The direct care registered nurse shall assess each such  
833 order before implementation in order to determine if the order  
834 is:

- 835 1. In the best interests of the patient;
- 836 2. Initiated by a person legally authorized to issue the  
837 order; and
- 838 3. Issued in accordance with applicable law and rules  
839 governing nursing care.

840 (b) If the direct care registered nurse determines these  
841 criteria have not been satisfied with respect to a particular

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842 order, or has some doubt regarding the meaning or conformance of  
843 the order with these criteria, she or he shall seek  
844 clarification from the initiator of the order, the patient's  
845 physician, or other appropriate medical officer. Clarification  
846 must be obtained prior to implementation.

847 (c) If, upon clarification, the direct care registered  
848 nurse determines that the criteria for implementation of an  
849 order have not been satisfied, she or he may refuse  
850 implementation on the basis that the order is not in the best  
851 interests of the patient. Seeking clarification of an order or  
852 refusing an order as described in this section constitutes an  
853 exercise of the direct care registered nurse's duty and right of  
854 patient advocacy.

855 (4) A direct care registered nurse has the professional  
856 obligation and therefore the right to act as the patient's  
857 advocate, as circumstances require, by initiating action to  
858 improve health care or to change decisions or activities that,  
859 in the professional judgment of the direct care registered  
860 nurse, are against the interests or wishes of the patient, or by  
861 giving the patient the opportunity to make informed decisions  
862 about health care before it is provided.

863 Section 7. Free speech; patient protection.-

864 (1) A direct care registered nurse has the right to act as  
865 the patient's advocate, as circumstances require, by:

866 (a) Initiating action to improve health care or to change  
867 decisions or activities that, in the professional judgment of  
868 the nurse, are against the interests and wishes of the patient;  
869 and

870 (b) Giving the patient an opportunity to make informed

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871 decisions about health care before it is provided.

872 (2) A direct care registered nurse may refuse to accept an  
873 assignment as a nurse in a health care facility if:

874 (a) The assignment would violate any provision of chapter  
875 464, Florida Statutes, or the rules adopted thereunder;

876 (b) The assignment would violate sections 3 through 6 of  
877 this act; or

878 (c) The direct care registered nurse is not prepared by  
879 education, training, or experience to fulfill the assignment  
880 without compromising the safety of any patient or jeopardizing  
881 the license of the registered nurse.

882 (3) A direct care registered nurse may refuse to perform  
883 any assigned tasks as a nurse in a health care facility if:

884 (a) The assigned task would violate any provision of  
885 chapter 464, Florida Statutes, or the rules adopted thereunder;

886 (b) The assigned task is outside the scope of practice of  
887 the direct care registered nurse; or

888 (c) The direct care registered nurse is not prepared by  
889 education, training, or experience to fulfill the assigned task  
890 without compromising the safety of any patient or jeopardizing  
891 the license of the direct care registered nurse.

892 (4) (a) A health care facility may not discharge,  
893 discriminate, or retaliate in any manner with respect to any  
894 aspect of employment, including discharge, promotion,  
895 compensation, or terms, conditions, or privileges of employment,  
896 against a direct care registered nurse based on the nurse's  
897 refusal of a work assignment or assigned task as provided in  
898 this section.

899 (b) A health care facility may not file a complaint or a

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900 report against a direct care registered nurse with the Board of  
901 Nursing or the Agency for Health Care Administration because of  
902 the nurse's refusal of a work assignment or assigned task  
903 described in this section.

904 (5) Any direct care registered nurse who has been  
905 discharged, discriminated against, or retaliated against in  
906 violation of this section or against whom a complaint has been  
907 filed in violation of paragraph (4) (b) may bring a cause of  
908 action in a state court. A direct care registered nurse who  
909 prevails on the cause of action is entitled to one or more of  
910 the following:

911 (a) Reinstatement.

912 (b) Reimbursement of lost wages, compensation, and  
913 benefits.

914 (c) Attorney fees.

915 (d) Court costs.

916 (e) Other damages.

917 (6) A direct care registered nurse, patient, or other  
918 individual may file a complaint with the agency against a health  
919 care facility that violates the provisions of this act. For any  
920 complaint filed, the agency shall:

921 (a) Receive and investigate the complaint;

922 (b) Determine whether a violation of this act as alleged in  
923 the complaint has occurred; and

924 (c) If such a violation has occurred, issue an order that  
925 the complaining nurse or individual not suffer any retaliation  
926 described in this section.

927 (7) (a) The agency shall provide for the establishment of a  
928 toll-free telephone hotline to provide information regarding the



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929 requirements of this section and to receive reports of  
930 violations of such section.

931 (b) A health care facility shall provide each patient  
932 admitted to the facility for inpatient care with the hotline  
933 described in paragraph (a), and shall give notice to each  
934 patient that such hotline may be used to report inadequate  
935 staffing or care.

936 (8) (a) A health care facility may not discriminate or  
937 retaliate in any manner against any patient, employee, or  
938 contract employee of the facility, or any other individual, on  
939 the basis that such individual, in good faith, individually or  
940 in conjunction with another person or persons, has presented a  
941 grievance or complaint, or has initiated or cooperated in any  
942 investigation or proceeding of any governmental entity,  
943 regulatory agency, or private accreditation body, made a civil  
944 claim or demand, or filed an action relating to the care,  
945 services, or conditions of the health care facility or of any  
946 affiliated or related facilities.

947 (b) For purposes of this subsection, an individual shall be  
948 deemed to be acting in good faith if the individual reasonably  
949 believes:

- 950 1. The information reported or disclosed is true; and
- 951 2. A violation of this act has occurred or may occur.

952 (9) (a) A health care facility may not:

- 953 1. Interfere with, restrain, or deny the exercise, or  
954 attempt to exercise, by any person of any right provided or  
955 protected under this act; or

956 2. Coerce or intimidate any person regarding the exercise  
957 or attempt to exercise such right.

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958 (b) A health care facility may not discriminate or  
959 retaliate against any person for opposing any facility policy,  
960 practice, or actions that are alleged to violate, breach, or  
961 fail to comply with any provision of this act.

962 (c) A health care facility, or an individual representing a  
963 health care facility, may not make, adopt, or enforce any rule,  
964 regulation, policy, or practice that in any manner directly or  
965 indirectly prohibits, impedes, or discourages a direct care  
966 registered nurse from, or intimidates, coerces, or induces a  
967 direct care registered nurse regarding, engaging in free speech  
968 activities or disclosing information as provided under this act.

969 (d) A health care facility, or an individual representing a  
970 health care facility, may not in any way interfere with the  
971 rights of nurses to organize, bargain collectively, and engage  
972 in concerted activity under chapter 7 of the National Labor  
973 Relations Act, 29 U.S.C. s. 157.

974 (e) A health care facility shall post in an appropriate  
975 location in each unit a conspicuous notice in a form specified  
976 by the agency which:

977 1. Explains the rights of nurses, patients, and other  
978 individuals under this section;

979 2. Includes a statement that a nurse, patient, or other  
980 individual may file a complaint with the agency against a health  
981 care facility that violates the provisions of this act; and

982 3. Provides instructions on how to file a complaint.

983 Section 8. Enforcement.—

984 (1) In addition to any other penalties prescribed by law,  
985 the agency may impose civil penalties as follows:

986 (a) The agency may impose against a health care facility

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987 found to be in violation of any provision of this act a civil  
988 penalty of not more than \$25,000 for each such violation, except  
989 that the agency shall impose a civil penalty of more than  
990 \$25,000 for each violation in the case of a health care facility  
991 that the agency determines has a pattern of practice of such  
992 violation.

993 (b) The agency may impose against an individual who is  
994 employed by a health care facility and who is found by the  
995 agency to have violated a requirement of this act a civil  
996 penalty of not more than \$20,000 for each such violation.

997 (2) The agency shall post on its Internet website the names  
998 of health care facilities against which civil penalties have  
999 been imposed under this act, and such additional information as  
1000 the agency deems necessary.

1001 Section 9. This act shall take effect July 1, 2013.