

1 A bill to be entitled
2 An act relating to delivery of nursing services;
3 creating the "Florida Hospital Patient Protection
4 Act"; creating s. 395.1014, F.S.; providing
5 legislative findings; defining terms; requiring
6 minimum direct care registered nurse staffing levels
7 in a health care facility; requiring that each health
8 care facility implement a staffing plan; prohibiting a
9 health care facility from imposing mandatory overtime
10 and certain other actions; specifying the required
11 ratios of direct care registered nurses to patients
12 for each type of care provided; prohibiting a health
13 care facility from using an acuity adjustable unit to
14 care for a patient; prohibiting a health care facility
15 from using video cameras or monitors as substitutes
16 for the required level of care; providing an exception
17 during a declared state of emergency; requiring that
18 the chief nursing officer of a health care facility,
19 or his or her designee, prepare a written staffing
20 plan that meets the direct care registered nurse
21 staffing levels required by the act; requiring that a
22 health care facility annually evaluate its actual
23 direct care registered nurse staffing levels and
24 update the staffing plan based on the evaluation;
25 requiring that certain documentation be submitted to

26 | the Agency for Health Care Administration and be made
27 | available for public inspection; requiring that the
28 | agency develop uniform standards for use by health
29 | care facilities in establishing nurse staffing
30 | requirements; providing requirements for the committee
31 | members who are appointed to develop the uniform
32 | standards; requiring health care facilities to
33 | annually report certain information to the agency and
34 | post a notice containing such information in each unit
35 | of the facility; prohibiting a health care facility
36 | from assigning unlicensed personnel to perform
37 | functions or tasks that are performed by a licensed or
38 | registered nurse; specifying those actions that
39 | constitute professional practice by a direct care
40 | registered nurse; requiring that a patient assessment
41 | be performed only by a direct care registered nurse;
42 | authorizing a direct care registered nurse to assign
43 | certain specified activities to other licensed or
44 | unlicensed nursing staff; prohibiting a health care
45 | facility from deploying technology that limits certain
46 | care provided by a direct care registered nurse;
47 | providing that it is a duty and right of a direct care
48 | registered nurse to act as the patient's advocate;
49 | providing certain requirements with respect to such
50 | duty; authorizing a direct care registered nurse to

51 refuse to perform certain activities if he or she
52 determines that it is not in the best interest of the
53 patient; authorizing a direct care registered nurse to
54 refuse an assignment under certain circumstances;
55 prohibiting a health care facility from discharging,
56 discriminating against, or retaliating against a nurse
57 based on such refusal; providing that a direct care
58 registered nurse has a right of action against a
59 health care facility that violates certain provisions
60 of the act; requiring that the agency establish a
61 toll-free telephone hotline to provide information and
62 to receive reports of violations of the act; requiring
63 that certain information be provided to each patient
64 who is admitted to a health care facility; prohibiting
65 a health care facility from interfering with the right
66 of nurses to organize or bargain collectively;
67 authorizing the agency to impose fines for violations
68 of the act; requiring that the agency post on its
69 website information regarding health care facilities
70 that have violated the act; providing an effective
71 date.

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Short title.—This act may be cited as the

76 "Florida Hospital Patient Protection Act."

77 Section 2. Section 395.1014, Florida Statutes, is created
78 to read:

79 395.1014 Health care facility patient care standards.—

80 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

81 (a) The state has a substantial interest in ensuring that,
82 in the delivery of health care services to patients, health care
83 facilities retain sufficient nursing staff so as to promote
84 optimal health care outcomes.

85 (b) Health care services are becoming more complex and it
86 is increasingly difficult for patients to access integrated
87 services. Competent, safe, therapeutic, and effective patient
88 care is jeopardized because of staffing changes implemented in
89 response to market-driven managed care. In order to ensure
90 effective protection of patients in acute care settings, it is
91 essential that qualified direct care registered nurses be
92 accessible and available to meet the individual needs of the
93 patient at all times. Also, in order to ensure the health and
94 welfare of residents and to ensure that hospital nursing care is
95 provided in the exclusive interests of patients, mandatory
96 practice standards and professional practice protections for
97 professional direct care registered nursing staff must be
98 established. Direct care registered nurses have a duty to care
99 for assigned patients and a necessary duty of individual and
100 collective patient advocacy in order to satisfy professional

101 obligations.

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

113 (d) Direct care registered nurses must be able to advocate
114 for their patients without fear of retaliation from their
115 employers. Whistle-blower protections that encourage registered
116 nurses and patients to notify governmental and private
117 accreditation entities of suspected unsafe patient conditions,
118 including protection against retaliation for refusing unsafe
119 patient care assignments, will greatly enhance the health,
120 safety, and welfare of patients.

121 (e) Direct care registered nurses have an irrevocable duty
122 and right to advocate on behalf of their patients' interests,
123 and this duty and right may not be encumbered by cost-saving
124 practices.

125 (2) DEFINITIONS.—As used in this section, the term:

126 (a) "Acuity-based patient classification system," "acuity
127 system," or "patient classification system" means an established
128 measurement tool that:

129 1. Predicts registered nursing care requirements for
130 individual patients based on the severity of a patient's
131 illness; the need for specialized equipment and technology; the
132 intensity of required nursing interventions; the complexity of
133 clinical nursing judgment required to design, implement, and
134 evaluate the patient nursing care plan consistent with
135 professional standards; the ability for self-care, including
136 motor, sensory, and cognitive deficits; and the need for
137 advocacy intervention;

138 2. Details the amount of nursing care needed and the
139 additional number of direct care registered nurses and other
140 licensed and unlicensed nursing staff that the hospital must
141 assign, based on the independent professional judgment of a
142 direct care registered nurse, in order to meet the needs of
143 individual patients at all times; and

144 3. Can be readily understood and used by direct care
145 nursing staff.

146 (b) "Ancillary support staff" means the personnel assigned
147 to assist in providing nursing services for the delivery of
148 safe, therapeutic, and effective patient care, including unit or
149 ward clerks and secretaries, clinical technicians, respiratory
150 therapists, and radiology, laboratory, housekeeping, and dietary

151 personnel.

152 (c) "Clinical supervision" means the assignment and
153 direction of a patient care task required in the implementation
154 of nursing care for a patient to other licensed nursing staff or
155 to unlicensed staff by a direct care registered nurse in the
156 exclusive interest of the patient.

157 (d) "Competence" means the ability of a direct care
158 registered nurse to act and integrate the knowledge, skill,
159 abilities, and independent professional judgment that underpin
160 safe, therapeutic, and effective patient care.

161 (e) "Declared state of emergency" means an officially
162 designated state of emergency that has been declared by a
163 federal, state, or local government official who has the
164 authority to declare the state of emergency. The term does not
165 include a state of emergency that results from a labor dispute
166 in the health care industry.

167 (f) "Direct care registered nurse" means a licensed
168 registered nurse whose competence has been documented and who
169 has accepted a direct, hands-on patient care assignment to
170 implement medical and nursing regimens and provide related
171 clinical supervision of patient care while exercising
172 independent professional judgment at all times in the exclusive
173 interest of the patient.

174 (g) "Health care facility unit" means an acute care
175 hospital; an emergency care, ambulatory, or outpatient surgery

176 facility licensed under this chapter; or a psychiatric facility
177 licensed under chapter 394.

178 (h) "Hospital unit" or "clinical unit" means a critical
179 care or intensive care unit, labor and delivery room, antepartum
180 and postpartum unit, newborn nursery, postanesthesia unit,
181 emergency department, operating room, pediatric unit, surgical
182 unit, rehabilitation unit, skilled nursing unit, specialty care
183 unit, step-down unit or intermediate intensive care unit,
184 telemetry unit, or psychiatric unit.

185 1. "Acuity adjustable unit" means a unit that adjusts a
186 room's technology, monitoring systems, and intensity of nursing
187 care based on the severity of the patient's condition.

188 2. "Critical care unit" or "intensive care unit" means a
189 nursing unit established to safeguard and protect a patient
190 whose severity of medical condition requires continuous
191 monitoring and complex intervention by a direct care registered
192 nurse and whose restorative measures and level of nursing
193 intensity require intensive care through direct observation by a
194 direct care registered nurse and complex monitoring, intensive
195 intricate assessment, evaluation, specialized rapid
196 intervention, and education or teaching of the patient, the
197 patient's family, or other representatives by a competent and
198 experienced direct care registered nurse. The term includes a
199 burn unit, a coronary care unit, or an acute respiratory unit.

200 3. "Rehabilitation unit" means a functional clinical unit

201 established to provide rehabilitation services that restore an
202 ill or injured patient to the highest level of self-sufficiency
203 or gainful employment of which he or she is capable in the
204 shortest possible time, compatible with his or her physical,
205 intellectual, and emotional or psychological capabilities, and
206 in accordance with planned goals and objectives.

207 4. "Skilled nursing unit" means a functional clinical unit
208 established to provide skilled nursing care and supportive care
209 to patients whose primary need is for skilled nursing care on a
210 long-term basis and who are admitted after at least a 48-hour
211 period of continuous inpatient care. The term includes, but is
212 not limited to, a unit established to provide medical, nursing,
213 dietary, and pharmaceutical services and activity programs.

214 5. "Specialty care unit" means a unit established to
215 safeguard and protect a patient whose severity of illness,
216 including all co-occurring morbidities, restorative measures,
217 and level of nursing intensity, requires continuous care through
218 direct observation by a direct care registered nurse and
219 monitoring, multiple assessments, specialized interventions,
220 evaluations, and education or teaching of the patient, the
221 patient's family, or other representatives by a competent and
222 experienced direct care registered nurse. The term includes, but
223 is not limited to, a unit established to provide the intensity
224 of care required for a specific medical condition or a specific
225 patient population or to provide more comprehensive care for a

226 specific condition or disease than the care required in a
227 surgical unit.

228 6. "Step-down unit" or "intermediate intensive care unit"
229 means a unit established to safeguard and protect a patient
230 whose severity of illness, including all co-occurring
231 morbidities, restorative measures, and level of nursing
232 intensity, requires intermediate intensive care through direct
233 observation by a direct care registered nurse and monitoring,
234 multiple assessments, specialized interventions, evaluations,
235 and education or teaching of the patient, the patient's family,
236 or other representatives by a competent and experienced direct
237 care registered nurse. The term includes units established to
238 provide care to patients who have moderate or potentially severe
239 physiological instability requiring technical support, but not
240 necessarily artificial life support. As used in this
241 subparagraph, the term:

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

245 b. "Technical support" means the use of specialized
246 equipment by a direct care registered nurse in providing for
247 invasive monitoring, telemetry, and mechanical ventilation for
248 the immediate amelioration or remediation of severe pathology
249 for a patient requiring less care than intensive care, but more
250 care than the care provided in a surgical unit.

251 7. "Surgical unit" means a unit established to safeguard
252 and protect a patient whose severity of illness, including all
253 co-occurring morbidities, restorative measures, and level of
254 nursing intensity, requires continuous care through direct
255 observation by a direct care registered nurse and monitoring,
256 multiple assessments, specialized interventions, evaluations,
257 and education or teaching of the patient, the patient's family,
258 or other representatives by a competent and experienced direct
259 care registered nurse. These units may include patients
260 requiring less than intensive care or step-down care; patients
261 receiving 24-hour inpatient general medical care, postsurgical
262 care, or both general medical and postsurgical care; and mixed
263 populations of patients of diverse diagnoses and diverse age
264 groups, but excluding pediatric patients.

265 8. "Telemetry unit" means a unit established to safeguard
266 and protect a patient whose severity of illness, including all
267 co-occurring morbidities, restorative measures, and level of
268 nursing intensity, requires intermediate intensive care through
269 direct observation by a direct care registered nurse and
270 monitoring, multiple assessments, specialized interventions,
271 evaluations, and education or teaching of the patient, the
272 patient's family, or other representatives by a competent and
273 experienced direct care registered nurse. A telemetry unit
274 includes the equipment used to provide for the electronic
275 monitoring, recording, retrieval, and display of cardiac

276 electrical signals.

277 (i) "Licensed nurse" means a registered nurse or a
278 licensed practical nurse, as defined in s. 464.003, who is
279 licensed by the Board of Nursing to engage in the practice of
280 professional nursing or the practice of practical nursing, as
281 defined in s. 464.003.

282 (j) "Long-term acute care hospital" means a hospital or
283 health care facility that specializes in providing long-term
284 acute care to medically complex patients. The term includes a
285 freestanding and hospital-within-hospital model of a long-term
286 acute care facility.

287 (k) "Overtime" means the hours worked in excess of:
288 1. An agreed-upon, predetermined, regularly scheduled
289 shift;
290 2. Twelve hours in a 24-hour period; or
291 3. Eighty hours in a 14-day period.

292 (l) "Patient assessment" means the use of critical
293 thinking by a direct care licensed nurse and the intellectually
294 disciplined process of actively and skillfully interpreting,
295 applying, analyzing, synthesizing, or evaluating data obtained
296 through direct observation and communication with others.

297 (m) "Professional judgment" means the intellectual,
298 educated, informed, and experienced process that a direct care
299 registered nurse exercises in forming an opinion and reaching a
300 clinical decision that is in the patient's best interest and is

301 based upon analysis of data, information, and scientific
302 evidence.

303 (n) "Skill mix" means the differences in licensing,
304 specialty, and experience among direct care registered nurses.

305 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
306 REQUIREMENTS.—

307 (a) Each health care facility shall implement a staffing
308 plan that provides for a minimum direct care registered nurse
309 staffing level in accordance with the general requirements set
310 forth in this subsection and the directed care registered nurse
311 staffing levels in a clinical unit as specified in paragraph
312 (b). Staffing levels for patient care tasks that do not require
313 a direct care registered nurse are not included within these
314 ratios and shall be determined pursuant to an acuity-based
315 patient classification system defined by agency rule.

316 1. A health care facility may not assign a direct care
317 registered nurse to a clinical unit unless the health care
318 facility and the direct care registered nurse determine that the
319 nurse has demonstrated and validated current competence in
320 providing care in that clinical unit and has also received
321 orientation in that area which is sufficient to provide
322 competent, safe, therapeutic, and effective care to a patient in
323 that area. The policies and procedures of the health care
324 facility must contain the criteria for making this
325 determination.

326 2. The direct care registered nurse staffing levels
327 represent the maximum number of patients that may be assigned to
328 one direct care registered nurse at any one time.

329 3. A health care facility:

330 a. May not average the number of patients and the total
331 number of direct care registered nurses assigned to patients in
332 a hospital unit or clinical unit during any period of time for
333 purposes of meeting the requirements under this subsection.

334 b. May not impose mandatory overtime in order to meet the
335 minimum direct care registered nurse staffing levels in the
336 hospital unit or clinical unit which are required under this
337 subsection.

338 c. Shall ensure that only a direct care registered nurse
339 may relieve another direct care registered nurse during breaks,
340 meals, and routine absences from a hospital unit or clinical
341 unit.

342 d. May not lay off licensed practical nurses, licensed
343 psychiatric technicians, certified nursing assistants, or other
344 ancillary support staff in order to meet the direct care
345 registered nurse staffing levels in a hospital unit or clinical
346 unit, as required in this subsection.

347 4. Only a direct care registered nurse may be assigned to
348 an intensive care newborn nursery service unit, which
349 specifically requires a direct care registered nurse staffing
350 level of one nurse to two or fewer infants at all times.

351 5. Only a direct care registered nurse may be assigned to
352 a triage patient, and only a direct care registered nurse may be
353 assigned to a critical care patient in the emergency department.

354 a. The direct care registered nurse staffing level for
355 triage patients or critical care patients in the emergency
356 department must be one nurse to two or fewer patients at all
357 times.

358 b. At least two direct care registered nurses must be
359 physically present in the emergency department when a patient is
360 present.

361 c. Triage, radio, specialty, or flight registered nurses
362 do not count in the calculation of direct care registered nurse
363 staffing levels.

364 d. Triage registered nurses may not be assigned the
365 responsibility of the base radio.

366 6. Only a direct care registered nurse may be assigned to
367 a labor and delivery unit.

368 a. The direct care registered nurse staffing level must be
369 one nurse to one active labor patient, or one patient having
370 medical or obstetrical complications, during the initiation of
371 epidural anesthesia and during circulation for a caesarean
372 section delivery.

373 b. The direct care registered nurse staffing level for
374 antepartum patients who are not in active labor must be one
375 nurse to three or fewer patients at all times.

376 c. In the event of a caesarean delivery, the direct care
377 registered nurse staffing level must be one nurse to four or
378 fewer mother-plus-infant couplets.

379 d. In the event of multiple births, the direct care
380 registered nurse staffing level must be one nurse to six or
381 fewer mother-plus-infant couplets.

382 e. The direct care registered nurse staffing level for
383 postpartum areas in which the direct care registered nurse's
384 assignment consists of only mothers must be one nurse to four or
385 fewer patients at all times.

386 f. The direct care registered nurse staffing level for
387 postpartum patients or postsurgical gynecological patients must
388 be one nurse to four or fewer patients at all times.

389 g. The direct care registered nurse staffing level for the
390 well-baby nursery must be one nurse to five or fewer patients at
391 all times.

392 h. The direct care registered nurse staffing level for
393 unstable newborns and newborns in the resuscitation period as
394 assessed by a direct care registered nurse must be at least one
395 nurse to one patient at all times.

396 i. The direct care registered nurse staffing level for
397 newborn infants must be one nurse to four or fewer patients at
398 all times.

399 7. The direct care registered nurse staffing level for
400 patients receiving conscious sedation must be at least one nurse

401 to one patient at all times.

402 (b) A health care facility's staffing plan must provide
403 that, at all times during each shift within a unit of the
404 facility, a direct care registered nurse is assigned to not more
405 than:

406 1. One patient in a trauma emergency unit;

407 2. One patient in an operating room unit. The operating
408 room must have at least one direct care registered nurse
409 assigned to the duties of the circulating registered nurse and a
410 minimum of one additional person as a scrub assistant for each
411 patient-occupied operating room;

412 3. Two patients in a critical care unit, including
413 neonatal intensive care units; emergency critical care and
414 intensive care units; labor and delivery units; coronary care
415 units; acute respiratory care units; postanesthesia units,
416 regardless of the type of anesthesia received; and postpartum
417 units so that the direct care registered nurse staffing level is
418 one nurse to two or fewer patients at all times;

419 4. Three patients in an emergency room unit; step-down
420 unit or intermediate intensive care unit; pediatrics unit;
421 telemetry unit; or combined labor, delivery, and postpartum unit
422 so that the direct care registered nurse staffing level is one
423 nurse to three or fewer patients at all times;

424 5. Four patients in a surgical unit, antepartum unit,
425 intermediate care nursery unit, psychiatric unit, or presurgical

426 or other specialty care unit so that the direct care registered
427 nurse staffing level is one nurse to four or fewer patients at
428 all times;

429 6. Five patients in a rehabilitation unit and skilled
430 nursing unit so that the direct care registered nurse staffing
431 level is one nurse to five or fewer patients at all times;

432 7. Six patients in a well-baby nursery unit so that the
433 direct care registered nurse staffing level is one nurse to six
434 or fewer patients at all times; or

435 8. Three mother-plus-infant couplets in a postpartum unit
436 so that the direct care registered nurse staffing level is one
437 nurse to three or fewer mother-plus-infant couplets at all
438 times.

439 (c)1. Identifying a hospital unit or clinical unit by a
440 name or term other than those defined in subsection (2) does not
441 affect the requirement of direct care registered nurse staffing
442 level identified for the level of intensity or type of care
443 described in paragraphs (a) and (b).

444 2. Patients shall be cared for only in hospital units or
445 clinical units in which the level of intensity, type of care,
446 and direct care registered nurse staffing levels meet the
447 individual requirements and needs of each patient. A health care
448 facility may not use an acuity adjustable unit to care for a
449 patient.

450 3. A health care facility may not use a video camera or

451 monitor or any form of electronic visualization of a patient to
452 substitute for the direct observation required for patient
453 assessment by the direct care registered nurse and for patient
454 protection required by an attendant.

455 (d) The requirements established under this subsection do
456 not apply during a declared state of emergency if a health care
457 facility is requested or expected to provide an exceptional
458 level of emergency or other medical services.

459 (e) The chief nursing officer or his or her designee shall
460 develop a staffing plan for each hospital unit or clinical unit.

461 1. The staffing plan must be in writing and, based on
462 individual patient care needs determined by the patient
463 classification system, must specify individual patient care
464 requirements and the staffing levels for direct care registered
465 nurses and other licensed and unlicensed personnel. The direct
466 care registered nurse staffing level on any shift may not fall
467 below the requirements in paragraphs (a) and (b) at any time.

468 2. In addition to the requirements of direct care
469 registered nurse staffing levels in paragraphs (a) and (b), each
470 health care facility shall assign additional nursing staff, such
471 as licensed practical nurses, licensed psychiatric technicians,
472 and certified nursing assistants, through the implementation of
473 a valid patient classification system for determining nursing
474 care needs of individual patients which reflects the assessment
475 of patient nursing care requirements made by the assigned direct

476 care registered nurse and which provides for shift-by-shift
477 staffing based on those requirements. The direct care registered
478 nurse staffing levels specified in paragraphs (a) and (b)
479 constitute the minimum number of registered nurses who shall be
480 assigned to provide direct patient care.

481 3. In developing the staffing plan, a health care facility
482 shall provide for direct care registered nurse staffing levels
483 that are above the minimum levels required in paragraphs (a) and
484 (b) based upon consideration of the following factors:

485 a. The number of patients and acuity level of patients as
486 determined by the application of an acuity system on a shift-by-
487 shift basis.

488 b. The anticipated admissions, discharges, and transfers
489 of patients during each shift which affect direct patient care.

490 c. The specialized experience required of direct care
491 registered nurses on a particular hospital unit or clinical
492 unit.

493 d. Staffing levels of other health care personnel who
494 provide services for direct patient care needs that normally do
495 not require care by a direct care registered nurse.

496 e. The level of efficacy of technology that is available
497 and that affects the delivery of direct patient care.

498 f. The level of familiarity with hospital practices,
499 policies, and procedures by a direct care registered nurse from
500 a temporary agency during a shift.

501 g. Obstacles to efficiency in the delivery of patient care
502 caused by the physical layout of the health care facility.

503 4. A health care facility shall specify the system used to
504 document actual staffing in each unit for each shift.

505 5. A health care facility shall annually evaluate:

506 a. The reliability of the patient classification system
507 for validating staffing requirements in order to determine
508 whether the system accurately measures individual patient care
509 needs and accurately predicts the staffing requirements for
510 direct care registered nurses, licensed practical nurses,
511 licensed psychiatric technicians, and certified nursing
512 assistants, based exclusively on individual patient needs.

513 b. The validity of the acuity-based patient classification
514 system.

515 6. A health care facility shall annually update its
516 staffing plan and acuity system to the extent appropriate based
517 on the annual evaluation conducted under subparagraph 5. If the
518 evaluation reveals that adjustments are necessary in order to
519 ensure accuracy in measuring patient care needs, such
520 adjustments must be implemented within 30 days after that
521 determination.

522 7. Any acuity-based patient classification system adopted
523 by a health care facility under this subsection must be
524 transparent in all respects, including disclosure of detailed
525 documentation of the methodology used to predict nursing

526 staffing; an identification of each factor, assumption, and
527 value used in applying such methodology; an explanation of the
528 scientific and empirical basis for each such assumption and
529 value; and certification by a knowledgeable and authorized
530 representative of the health care facility that the disclosures
531 regarding methods used for testing and validating the accuracy
532 and reliability of the system are true and complete.

533 a. The documentation required by this subparagraph shall
534 be submitted in its entirety to the agency as a mandatory
535 condition of licensure, with a certification by the chief
536 nursing officer of the health care facility that the
537 documentation completely and accurately reflects implementation
538 of a valid acuity-based patient classification system used to
539 determine nursing service staffing by the facility for each
540 shift on each hospital unit or clinical unit in which patients
541 receive care. The chief nursing officer shall execute the
542 certification under penalty of perjury, and the certification
543 must contain an expressed acknowledgment that any false
544 statement constitutes fraud and is subject to criminal and civil
545 prosecution and penalties.

546 b. Such documentation must be available for public
547 inspection in its entirety in accordance with procedures
548 established by administrative rules adopted by the agency,
549 consistent with the purposes of this section.

550 8. A staffing plan of a health care facility shall be

551 developed and evaluated by a committee created by the health
552 care facility. At least half of the members of the committee
553 must be unit-specific competent direct care registered nurses.

554 a. The chief nursing officer at the facility shall appoint
555 the members who are not direct care registered nurses. The
556 direct care registered nurses on the committee shall be
557 appointed by the chief nursing officer, if the direct care
558 registered nurses are not represented by a collective bargaining
559 agreement or by an authorized collective bargaining agent.

560 b. In case of a dispute, the direct care registered nurse
561 assessment shall prevail.

562 c. This section does not authorize conduct that is
563 prohibited under the National Labor Relations Act or the Federal
564 Labor Relations Act.

565 9. By July 1, 2018, the agency shall approve uniform
566 statewide standards for a standardized acuity tool for use in
567 health care facilities. The standardized acuity tool shall
568 provide a method for establishing nurse staffing requirements
569 which exceed the required direct care registered nurse staffing
570 levels in the hospital units or clinical units in paragraphs (a)
571 and (b).

572 a. The proposed standards shall be developed by a
573 committee created by the health care facility consisting of up
574 to 20 members. At least 11 of the committee members must be
575 currently licensed registered nurses who are employed as direct

576 care registered nurses, and the remaining members must include a
577 sufficient number of technical or scientific experts in the
578 specialized fields who are involved in the design and
579 development of a patient classification system that meets the
580 requirements of this section.

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

594 c. Within 1 year after the official commencement of
595 committee operations, the development committee shall provide a
596 written report to the agency which proposes uniform standards
597 for a valid patient classification system, along with sufficient
598 explanation and justification to allow for competent review and
599 determination of sufficiency by the agency. The agency shall
600 disclose the report to the public upon notice of public hearings

601 and provide a public comment period for proposed adoption of
602 uniform standards for a patient classification system by the
603 agency.

604 10. Each hospital shall adopt and implement the patient
605 classification system and provide staffing based on the
606 standardized acuity tool. Any additional direct care registered
607 nurse staffing levels that exceed the direct care registered
608 nurse staffing levels described in paragraphs (a) and (b) shall
609 be assigned in a manner determined by such standardized acuity
610 tool.

611 11. A health care facility shall submit to the agency its
612 annually updated staffing plan and acuity system as required
613 under this paragraph.

614 (f)1. In each hospital unit or clinical unit, a health
615 care facility shall post a uniform notice in a form specified by
616 agency rule which:

617 a. Explains the requirements imposed under this
618 subsection;

619 b. Includes actual direct care registered nurse staffing
620 levels during each shift at the hospital unit or clinical unit;

621 c. Is visible, conspicuous, and accessible to staff and
622 patients of the hospital unit or clinical unit and the public;

623 d. Identifies staffing requirements as determined by the
624 patient classification system for each hospital unit or clinical
625 unit, documented and posted in the unit for public view on a

626 day-to-day, shift-by-shift basis;

627 e. Documents the actual number of staff and the skill mix
628 at each hospital unit or clinical unit, documented and posted in
629 the unit for public view on a day-to-day, shift-by-shift basis;
630 and

631 f. Reports the variance between the required and actual
632 staffing patterns at each hospital unit or clinical unit,
633 documented and posted in the unit for public view on a day-to-
634 day, shift-by-shift basis.

635 2.a. Each long-term acute care hospital shall maintain
636 accurate records of actual staffing levels in each hospital unit
637 or clinical unit for each shift for at least 2 years. Such
638 records must include:

639 (I) The number of patients in each unit;

640 (II) The identity and duty hours of each direct care
641 registered nurse, licensed practical nurse, licensed psychiatric
642 technician, and certified nursing assistant assigned to each
643 patient in the hospital unit or clinical unit for each shift;

644 and

645 (III) A copy of each posted notice.

646 b. Each health care facility shall make its records
647 maintained under paragraph (e) available to the agency; to
648 registered nurses and their collective bargaining
649 representatives, if any; and to the public under rules adopted
650 by the agency.

651 3. The agency shall conduct periodic audits to ensure
652 implementation of the staffing plan in accordance with this
653 subsection and to ensure the accuracy of records maintained
654 under paragraph (e).

655 (g) Health care facilities shall plan for routine
656 fluctuations such as admissions, discharges, and transfers in
657 the patient census. If a declared health care emergency causes a
658 change in the number of patients in a unit, the facility must
659 demonstrate that immediate and diligent efforts are made to
660 maintain required staffing levels.

661 (h) The following activities are prohibited:

662 1. The direct assignment of unlicensed personnel by a
663 health care facility to perform functions required of a
664 registered nurse in lieu of care being delivered by a licensed
665 or registered nurse under the clinical supervision of a direct
666 care registered nurse.

667 2. The performance of tasks by unlicensed personnel which
668 require the clinical assessment, judgment, and skill of a
669 licensed registered nurse, including, but not limited to:

670 a. Nursing activities that require nursing assessment and
671 judgment during implementation;

672 b. Physical, psychological, or social assessments that
673 require nursing judgment, intervention, referral, or followup;
674 and

675 c. Formulation of a plan of nursing care and evaluation of

676 a patient's response to the care provided, including
677 administration of medication; venipuncture or intravenous
678 therapy; parenteral or tube feedings; invasive procedures,
679 including inserting nasogastric tubes, inserting catheters, or
680 tracheal suctioning; and educating patients and their families
681 concerning the patient's health care problems, including
682 postdischarge care. However, a phlebotomist, an emergency room
683 technician, or a medical technician may, under the general
684 supervision of the clinical laboratory director, or his or her
685 designee, or a physician, perform venipunctures in accordance
686 with written hospital policies and procedures.

687 (4) PROFESSIONAL PRACTICE STANDARDS FOR DIRECT CARE
688 REGISTERED NURSES WORKING IN A HEALTH CARE FACILITY.—

689 (a) A direct care registered nurse employing scientific
690 knowledge and experience in the physical, social, and biological
691 sciences, and exercising independent judgment in applying the
692 nursing process, shall directly provide:

693 1. Continuous and ongoing assessments of the patient's
694 condition.

695 2. The planning, clinical supervision, implementation, and
696 evaluation of the nursing care to each patient.

697 3. The assessment, planning, implementation, and
698 evaluation of patient education, including ongoing postdischarge
699 education of each patient.

700 4. The delivery of patient care, which must reflect all

701 elements of the nursing process and must include assessment,
702 nursing diagnosis, planning, intervention, evaluation, and, as
703 circumstances require, patient advocacy, and shall be initiated
704 by a direct care registered nurse at the time of admission.

705 5. The nursing plan for the patient 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, when
708 appropriate, and staff of other disciplines involved in the care
709 of the patient.

710 6. 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 modification of
715 the plan as needed.

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

722 (b)1. 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

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

729 2. Only a direct care registered nurse may perform a
730 patient assessment. A licensed practical nurse or licensed
731 psychiatric technician may assist a direct care registered nurse
732 in data collection.

733 (c)1. A direct care registered nurse shall determine the
734 nursing care needs of individual patients through the process of
735 ongoing patient assessments, nursing diagnosis, formulation, and
736 adjustment of nursing care plans.

737 2. 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 subsection (3).

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

750 1. Current documented, demonstrated, and validated

751 competency is required for each direct care registered nurse and
752 must be determined based on the satisfactory performance of:

753 a. The statutorily recognized duties and responsibilities
754 of a registered nurse as set forth in chapter 464 and under
755 rules adopted under that chapter; and

756 b. The standards required under subsection (3) and this
757 subsection that are specific to each hospital unit or clinical
758 unit.

759 2. A direct care registered nurse's independent judgment
760 while performing the functions described in this section shall
761 be provided in the exclusive interests of the patient and may
762 not, for any purpose, be considered, relied upon, or represented
763 as a job function, authority, responsibility, or activity
764 undertaken in any respect for the purpose of serving the
765 business, commercial, operational, or other institutional
766 interests of the health care facility employer.

767 (e)1. In addition to the prohibition on assignments of
768 patient care tasks provided in paragraph (3)(h), a direct care
769 registered nurse may assign tasks required to implement nursing
770 care for a patient to other licensed nursing staff or to
771 unlicensed staff only if the assigning direct care registered
772 nurse:

773 a. Determines that the personnel assigned the tasks
774 possess the necessary training, experience, and capability to
775 competently and safely perform the tasks to be assigned; and

776 b. Effectively supervises the clinical functions and
777 nursing care tasks performed by the assigned personnel.

778 2. The exercise of clinical supervision of nursing care
779 personnel by a direct care registered nurse in the performance
780 of the functions as provided in this subsection must be in the
781 exclusive interest of the patient and may not, for any purpose,
782 be considered, relied upon, or represented as a job function,
783 authority, responsibility, or activity undertaken in any respect
784 for the purpose of serving the business, commercial,
785 operational, or other institutional interests of the health care
786 facility employer, but constitutes the exercise of professional
787 nursing authority and duty exclusively in the interest of the
788 patient.

789 (f) A health care facility may not deploy technology that
790 limits the direct care provided by a direct care registered
791 nurse in the performance of functions that are part of the
792 nursing process, including the full exercise of independent
793 professional judgment in the assessment, planning,
794 implementation, and evaluation of care, or that limits a direct
795 care registered nurse from acting as a patient advocate in the
796 exclusive interest of the patient. Technology may not be skill
797 degrading, interfere with the direct care registered nurse's
798 provision of individualized patient care, override the direct
799 care registered nurse's independent professional judgment, or
800 interfere with the direct care registered nurse's right to

801 advocate in the exclusive interest of the patient.

802 (g) This subsection applies only to nurses employed by or
803 providing care in a health care facility.

804 (5) DIRECT CARE REGISTERED NURSE'S DUTY AND RIGHT OF
805 PATIENT ADVOCACY.—

806 (a) A direct care registered nurse has a duty and right to
807 act and provide care in the exclusive interest of the patient
808 and to act as the patient's advocate.

809 (b) A direct care registered nurse shall always provide
810 competent, safe, therapeutic, and effective nursing care to an
811 assigned patient.

812 1. Before accepting a patient assignment, a direct care
813 registered nurse must have the necessary knowledge, judgment,
814 skills, and ability to provide the required care. It is the
815 responsibility of the direct care registered nurse to determine
816 whether the nurse is clinically competent to perform the nursing
817 care required by patients in a particular clinical unit or who
818 have a particular diagnosis, condition, prognosis, or other
819 determinative characteristic of nursing care, and whether
820 acceptance of a patient assignment would expose the patient to
821 the risk of harm.

822 2. If the direct care registered nurse is not competent to
823 perform the care required for a patient assigned for nursing
824 care or if the assignment would expose the patient to risk of
825 harm, the direct care registered nurse may not accept the

826 patient care assignment. Such refusal to accept a patient care
827 assignment is an exercise of the direct care registered nurse's
828 duty and right of patient advocacy.

829 (c) A direct care registered nurse may refuse to accept an
830 assignment as a nurse in a health care facility if:

831 1. The assignment would violate a provision of chapter 464
832 or the rules adopted under that chapter;

833 2. The assignment would violate subsection (3), subsection
834 (4), or this subsection; or

835 3. The direct care registered nurse is not prepared by
836 education, training, or experience to fulfill the assignment
837 without compromising the safety of a patient or jeopardizing the
838 license of the direct care registered nurse.

839 (d) A direct care registered nurse may refuse to perform
840 an assigned task as a nurse in a health care facility if:

841 1. The assigned task would violate a provision of chapter
842 464 or the rules adopted under that chapter;

843 2. The assigned task is outside the scope of practice of
844 the direct care registered nurse; or

845 3. The direct care registered nurse is not prepared by
846 education, training, or experience to fulfill the assigned task
847 without compromising the safety of a patient or jeopardizing the
848 license of the direct care registered nurse.

849 (e) In the course of performing the responsibilities and
850 essential functions described in subsection (4), the direct care

851 registered nurse assigned to a patient shall receive orders
852 initiated by physicians and other legally authorized health care
853 professionals within their scope of licensure regarding patient
854 care services to be provided to the patient, including, but not
855 limited to, the administration of medications and therapeutic
856 agents that are necessary to implement a treatment, a
857 rehabilitative regimen, or disease prevention.

858 1. The direct care registered nurse shall assess each such
859 order before implementation to determine if the order is:

860 a. In the best interest of the patient;

861 b. Initiated by a person legally authorized to issue the
862 order; and

863 c. Issued in accordance with applicable law and rules
864 governing nursing care.

865 2. If the direct care registered nurse determines that the
866 criteria provided in subparagraph 1. have not been satisfied
867 with respect to a particular order or if the nurse has some
868 doubt regarding the meaning or conformance of the order with
869 such criteria, he or she shall seek clarification from the
870 initiator of the order, the patient's physician, or another
871 appropriate medical officer before implementing the order.

872 3. If, upon clarification, the direct care registered
873 nurse determines that the criteria for implementation of an
874 order provided in subparagraph 1. have not been satisfied, the
875 nurse may refuse implementation on the basis that the order is

876 not in the best interest of the patient. Seeking clarification
877 of an order or refusing an order as described in this
878 subparagraph is an exercise of the direct care registered
879 nurse's duty and right of patient advocacy.

880 (f) A direct care registered nurse shall, as circumstances
881 require, initiate action to improve the patient health care or
882 to change decisions or activities that, in the professional
883 judgment of the direct care registered nurse, are against the
884 interest or wishes of the patient, or shall give the patient the
885 opportunity to make informed decisions about the health care
886 before it is provided.

887 (6) FREE SPEECH; PATIENT PROTECTION.—

888 (a) A health care facility may not:

889 1. Discharge, discriminate against, or retaliate against
890 in any manner with respect to any aspect of employment,
891 including discharge, promotion, compensation, or terms,
892 conditions, or privileges of employment, a direct care
893 registered nurse based on the nurse's refusal of a work
894 assignment pursuant to paragraph (5) (c) or an assigned task
895 pursuant to paragraph (5) (d).

896 2. File a complaint or a report against a direct care
897 registered nurse with the Board of Nursing or the agency because
898 of the nurse's refusal of a work assignment pursuant to
899 paragraph (5) (c) or an assigned task pursuant to paragraph
900 (5) (d).

901 (b) A direct care registered nurse who has been
902 discharged, discriminated against, or retaliated against in
903 violation of this section or against whom a complaint or a
904 report has been filed in violation of subparagraph (a)2. may
905 bring a cause of action in a state court. A direct care
906 registered nurse who prevails in the cause of action is entitled
907 to one or more of the following:

- 908 1. Reinstatement.
909 2. Reimbursement of lost wages, compensation, and
910 benefits.
911 3. Attorney fees.
912 4. Court costs.
913 5. Other damages.

914 (c) A direct care registered nurse, patient, or other
915 individual may file a complaint with the agency against a health
916 care facility that violates this section. For any complaint
917 filed, the agency shall:

- 918 1. Receive and investigate the complaint;
919 2. Determine whether a violation of this section as
920 alleged in the complaint has occurred; and
921 3. If such a violation has occurred, issue an order that
922 the complaining nurse, patient, or other individual not suffer
923 any retaliation described in paragraph (a).

924 (d)1. The agency shall provide for the establishment of a
925 toll-free telephone hotline to provide information regarding the

926 requirements of this subsection and to receive reports of
927 violations of this subsection.

928 2. A health care facility shall provide each patient
929 admitted to the facility for inpatient care with the toll-free
930 telephone hotline described in subparagraph 1. and shall give
931 notice to each patient that the hotline may be used to report
932 inadequate staffing or care.

933 (e)1. A health care facility may not discriminate or
934 retaliate in any manner against any patient, employee, or
935 contract employee of the facility, or any other individual, on
936 the basis that such individual, in good faith, individually or
937 in conjunction with another person or persons, has presented a
938 grievance or complaint; initiated or cooperated in an
939 investigation or proceeding by a governmental entity, regulatory
940 agency, or private accreditation body; made a civil claim or
941 demand; or filed an action relating to the care, services, or
942 conditions of the health care facility or of any affiliated or
943 related facilities.

944 2. For purposes of this paragraph, an individual is deemed
945 to be acting in good faith if the individual reasonably
946 believes:

947 a. The information reported or disclosed is true; and
948 b. A violation of this section has occurred or may occur.

949 (f)1. A health care facility may not:

950 a. Interfere with, restrain, or deny the exercise of, or

951 the attempt to exercise, any right provided or protected under
952 this section; or

953 b. Coerce or intimidate any person regarding the exercise
954 of, or the attempt to exercise, such right.

955 2. A health care facility may not discriminate or
956 retaliate against any person for opposing any facility policy,
957 practice, or action that is alleged to violate, breach, or fail
958 to comply with any provision of this section.

959 3. A health care facility, or an individual representing a
960 health care facility, may not make, adopt, or enforce any rule,
961 regulation, policy, or practice that in any manner directly or
962 indirectly prohibits, impedes, or discourages a direct care
963 registered nurse from engaging in free speech or disclosing
964 information as provided under this subsection.

965 4. A health care facility, or an individual representing a
966 health care facility, may not in any way interfere with the
967 rights of nurses to organize, bargain collectively, and engage
968 in concerted activity under chapter 7 of the National Labor
969 Relations Act, 29 U.S.C. s. 157.

970 5. A health care facility shall post in an appropriate
971 location in each hospital unit or clinical unit a conspicuous
972 notice in a form specified by the agency which:

973 a. Explains the rights of nurses, patients, and other
974 individuals under this subsection;

975 b. Includes a statement that a nurse, patient, or other

976 individual may file a complaint with the agency against a health
977 care facility that violates this subsection; and

978 c. Provides instructions on how to file a complaint.

979 (7) ENFORCEMENT.—

980 (a) In addition to any other penalties prescribed by law,
981 the agency may impose civil penalties as follows:

982 1. Against a health care facility found to have violated a
983 provision of this section, a civil penalty of up to \$25,000 for
984 each violation, except that the agency shall impose a civil
985 penalty of at least \$25,000 for each violation if the agency
986 determines that the health care facility has a pattern of
987 practice of such violation.

988 2. Against an individual who is employed by a health care
989 facility and who is found to have violated a provision of this
990 section, a civil penalty of up to \$20,000 for each violation.

991 (b) The agency shall post on its website the names of
992 health care facilities against which civil penalties have been
993 imposed under this subsection and such additional information as
994 the agency deems necessary.

995 Section 3. This act shall take effect July 1, 2017.

996