

By Senator Campbell

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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 that
6 each health care facility implement a staffing plan
7 that provides minimum direct care registered nursing
8 staffing levels; requiring a direct care registered
9 nurse to demonstrate competence and to receive
10 specified orientation before being assigned to a
11 hospital or clinical unit; prohibiting a health care
12 facility from imposing mandatory overtime and from
13 engaging in certain other actions; providing
14 requirements for the staffing plan; specifying the
15 required ratios of direct care registered nurses to
16 patients for each type of care provided; prohibiting a
17 health care facility from using an acuity adjustable
18 unit to care for a patient; prohibiting a health care
19 facility from using video cameras or monitors as
20 substitutes for the required level of care; providing
21 an exception during a declared state of emergency;
22 requiring that the chief nursing officer of a health
23 care facility, or his or her designee, develop a
24 staffing plan that meets the required direct care
25 registered nurse staffing levels; requiring that a
26 health care facility annually evaluate its actual
27 direct care registered nurse staffing levels and
28 update the staffing plan and acuity-based patient
29 classification system; requiring that certain

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

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59 authorizing a direct care registered nurse to refuse
60 to accept an assignment or to perform a task under
61 certain circumstances; requiring a direct care
62 registered nurse to initiate action or to change a
63 decision or an activity relating to a patient's health
64 care under certain circumstances; prohibiting a health
65 care facility from discharging, or from
66 discriminating, retaliating, or filing a complaint or
67 report against, a direct care registered nurse based
68 on such refusal; providing that a direct care
69 registered nurse has a right of action against a
70 health care facility that violates certain provisions;
71 requiring that the agency establish a toll-free
72 telephone hotline to provide information and to
73 receive reports of certain violations; requiring that
74 certain information be provided to each patient who is
75 admitted to a health care facility; prohibiting a
76 health care facility from engaging in certain actions;
77 prohibiting a health care facility from interfering
78 with the right of nurses to organize, bargain
79 collectively, and engage in concerted activity under a
80 federal act; authorizing the agency to impose fines
81 for violations; requiring that the agency post on its
82 website information regarding health care facilities
83 on which civil penalties have been imposed; providing
84 an effective date.

85

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

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88 Section 1. Short title.—This act may be cited as the
89 “Florida Hospital Patient Protection Act.”

90 Section 2. Section 395.1014, Florida Statutes, is created
91 to read:

92 395.1014 Health care facility patient care standards.—

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

94 (a) The state has a substantial interest in ensuring that,
95 in the delivery of health care services to patients, health care
96 facilities retain sufficient nursing staff so as to promote
97 optimal health care outcomes.

98 (b) Health care services are becoming more complex and it
99 is increasingly difficult for patients to access integrated
100 services. Competent, safe, therapeutic, and effective patient
101 care is jeopardized because of staffing changes implemented in
102 response to market-driven managed care. In order to ensure
103 effective protection of patients in acute care settings, it is
104 essential that qualified direct care registered nurses be
105 accessible and available to meet the individual needs of the
106 patient at all times. Also, in order to ensure the health and
107 welfare of residents and to ensure that hospital nursing care is
108 provided in the exclusive interests of patients, mandatory
109 practice standards and professional practice protections for
110 professional direct care registered nursing staff must be
111 established. Direct care registered nurses have a duty to care
112 for assigned patients and a necessary duty of individual and
113 collective patient advocacy in order to satisfy professional
114 obligations.

115 (c) The basic principles of staffing in hospital settings
116 should be based on the care needs of the individual patient, the

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117 severity of the patient's condition, the services needed, and
118 the complexity surrounding those services. Current unsafe
119 practices by hospital direct care registered nursing staff have
120 resulted in adverse patient outcomes. Mandating the adoption of
121 uniform, minimum, numerical, and specific registered nurse-to-
122 patient staffing ratios by licensed hospital facilities is
123 necessary for competent, safe, therapeutic, and effective
124 professional nursing care and for the retention and recruitment
125 of qualified direct care registered nurses.

126 (d) Direct care registered nurses must be able to advocate
127 for their patients without fear of retaliation from their
128 employers. Whistle-blower protections that encourage registered
129 nurses and patients to notify governmental and private
130 accreditation entities of suspected unsafe patient conditions,
131 including protection against retaliation for refusing unsafe
132 patient care assignments, will greatly enhance the health,
133 safety, and welfare of patients.

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

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

139 (a) "Acuity-based patient classification system" or
140 "patient classification system" means an established measurement
141 tool that:

142 1. Predicts registered nursing care requirements for
143 individual patients based on the severity of a patient's
144 illness; the need for specialized equipment and technology; the
145 intensity of required nursing interventions; the complexity of

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146 clinical nursing judgment required to design, implement, and
147 evaluate the patient nursing care plan consistent with
148 professional standards; the ability for self-care, including
149 motor, sensory, and cognitive deficits; and the need for
150 advocacy intervention;

151 2. Details the amount of nursing care needed and the
152 additional number of direct care registered nurses and other
153 licensed and unlicensed nursing staff that the hospital must
154 assign, based on the independent professional judgment of a
155 direct care registered nurse, in order to meet the needs of
156 individual patients at all times; and

157 3. Can be readily understood and used by direct care
158 nursing staff.

159 (b) "Ancillary support staff" means the personnel assigned
160 to assist in providing nursing services for the delivery of
161 safe, therapeutic, and effective patient care, including unit or
162 ward clerks and secretaries, clinical technicians, respiratory
163 therapists, and radiology, laboratory, housekeeping, and dietary
164 personnel.

165 (c) "Clinical supervision" means the assignment and
166 direction of a patient care task required in the implementation
167 of nursing care for a patient to other licensed nursing staff or
168 to unlicensed staff by a direct care registered nurse in the
169 exclusive interest of the patient.

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

174 (e) "Declared state of emergency" means an officially

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175 designated state of emergency that has been declared by a
176 federal, state, or local government official who has the
177 authority to declare the state of emergency. The term does not
178 include a state of emergency that results from a labor dispute
179 in the health care industry.

180 (f) "Direct care registered nurse" means a registered nurse
181 or licensed practical nurse, as defined in s. 464.003:

182 1. Who is licensed by the Board of Nursing to engage in the
183 practice of professional nursing or the practice of practical
184 nursing, as defined in s. 464.003;

185 2. Whose competence has been documented; and

186 3. Who has accepted a direct, hands-on patient care
187 assignment to implement medical and nursing regimens and provide
188 related clinical supervision of patient care while exercising
189 independent professional judgment at all times in the exclusive
190 interest of the patient.

191 (g) "Health care facility unit" means an acute care
192 hospital; an emergency care, ambulatory, or outpatient surgery
193 facility licensed under this chapter; or a psychiatric facility
194 licensed under chapter 394.

195 (h) "Hospital unit" or "clinical unit" means an acuity
196 adjustable unit, a critical care unit or intensive care unit,
197 labor and delivery room, antepartum and postpartum unit, newborn
198 nursery, postanesthesia unit, emergency department, operating
199 room, pediatric unit, rehabilitation unit, skilled nursing unit,
200 specialty care unit, step-down unit or intermediate intensive
201 care unit, surgical unit, telemetry unit, or psychiatric unit.

202 1. "Acuity adjustable unit" means a unit that adjusts a
203 room's technology, monitoring systems, and intensity of nursing

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204 care based on the severity of the patient's condition.

205 2. "Critical care unit" or "intensive care unit" means a
206 nursing unit established to safeguard and protect a patient
207 whose severity of medical condition requires continuous
208 monitoring and complex intervention by a direct care registered
209 nurse and whose restorative measures and level of nursing
210 intensity require intensive care through direct observation by a
211 direct care registered nurse and complex monitoring, intensive
212 intricate assessment, evaluation, specialized rapid
213 intervention, and education or teaching of the patient, the
214 patient's family, or other representatives by a competent and
215 experienced direct care registered nurse. The term includes a
216 burn unit, a coronary care unit, or an acute respiratory unit.

217 3. "Rehabilitation unit" means a functional clinical unit
218 established to provide rehabilitation services that restore an
219 ill or injured patient to the highest level of self-sufficiency
220 or gainful employment of which he or she is capable in the
221 shortest possible time, compatible with his or her physical,
222 intellectual, and emotional or psychological capabilities, and
223 in accordance with planned goals and objectives.

224 4. "Skilled nursing unit" means a functional clinical unit
225 established to provide skilled nursing care and supportive care
226 to patients whose primary need is for skilled nursing care on a
227 long-term basis and who are admitted after at least a 48-hour
228 period of continuous inpatient care. The term includes, but is
229 not limited to, a unit established to provide medical, nursing,
230 dietary, and pharmaceutical services and activity programs.

231 5. "Specialty care unit" means a unit established to
232 safeguard and protect a patient whose severity of illness,

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233 including all co-occurring morbidities, restorative measures,
234 and level of nursing intensity, requires continuous care through
235 direct observation by a direct care registered nurse and
236 monitoring, multiple assessments, specialized interventions,
237 evaluations, and education or teaching of the patient, the
238 patient's family, or other representatives by a competent and
239 experienced direct care registered nurse. The term includes, but
240 is not limited to, a unit established to provide the intensity
241 of care required for a specific medical condition or a specific
242 patient population or to provide more comprehensive care for a
243 specific condition or disease than the care required in a
244 surgical unit.

245 6. "Step-down unit" or "intermediate intensive care unit"
246 means a unit established to safeguard and protect a patient
247 whose severity of illness, including all co-occurring
248 morbidities, restorative measures, and level of nursing
249 intensity, requires intermediate intensive care through direct
250 observation by a direct care registered nurse and monitoring,
251 multiple assessments, specialized interventions, evaluations,
252 and education or teaching of the patient, the patient's family,
253 or other representatives by a competent and experienced direct
254 care registered nurse. The term includes units established to
255 provide care to patients who have moderate or potentially severe
256 physiological instability requiring technical support, but not
257 necessarily artificial life support. As used in this
258 subparagraph, the term:

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

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262 b. "Technical support" means the use of specialized
263 equipment by a direct care registered nurse in providing for
264 invasive monitoring, telemetry, and mechanical ventilation for
265 the immediate amelioration or remediation of severe pathology
266 for a patient requiring less care than intensive care, but more
267 care than the care provided in a surgical unit.

268 7. "Surgical unit" means a unit established to safeguard
269 and protect a patient whose severity of illness, including all
270 co-occurring morbidities, restorative measures, and level of
271 nursing intensity, requires continuous care through direct
272 observation by a direct care registered nurse and monitoring,
273 multiple assessments, specialized interventions, evaluations,
274 and education or teaching of the patient, the patient's family,
275 or other representatives by a competent and experienced direct
276 care registered nurse. These units may include patients
277 requiring less than intensive care or step-down care; patients
278 receiving 24-hour inpatient general medical care, postsurgical
279 care, or both general medical and postsurgical care; and mixed
280 populations of patients of diverse diagnoses and diverse ages,
281 but excluding pediatric patients.

282 8. "Telemetry unit" means a unit established to safeguard
283 and protect a patient whose severity of illness, including all
284 co-occurring morbidities, restorative measures, and level of
285 nursing intensity, requires intermediate intensive care through
286 direct observation by a direct care registered nurse and
287 monitoring, multiple assessments, specialized interventions,
288 evaluations, and education or teaching of the patient, the
289 patient's family, or other representatives by a competent and
290 experienced direct care registered nurse. A telemetry unit

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291 includes the equipment used to provide for the electronic
292 monitoring, recording, retrieval, and display of cardiac
293 electrical signals.

294 (i) "Long-term acute care hospital" means a hospital or
295 health care facility that specializes in providing long-term
296 acute care to medically complex patients. The term includes a
297 freestanding and hospital-within-hospital model of a long-term
298 acute care facility.

299 (j) "Overtime" means the hours worked in excess of:

300 1. An agreed-upon, predetermined, regularly scheduled
301 shift;

302 2. Twelve hours in a 24-hour period; or

303 3. Eighty hours in a 14-day period.

304 (k) "Patient assessment" means the use of critical thinking
305 by a direct care registered nurse and the intellectually
306 disciplined process of actively and skillfully interpreting,
307 applying, analyzing, synthesizing, or evaluating data obtained
308 through direct observation and communication with others.

309 (l) "Professional judgment" means the intellectual,
310 educated, informed, and experienced process that a direct care
311 registered nurse exercises in forming an opinion and reaching a
312 clinical decision that is in the patient's best interest and is
313 based upon analysis of data, information, and scientific
314 evidence.

315 (m) "Skill mix" means the differences in licensing,
316 specialty, and experience among direct care registered nurses.

317 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
318 REQUIREMENTS.—

319 (a) A health care facility shall implement a staffing plan

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320 that provides for a minimum direct care registered nurse
321 staffing level in accordance with the general requirements set
322 forth in this subsection and the directed care registered nurse
323 staffing levels in a clinical unit as specified in paragraph
324 (b). Staffing levels for patient care tasks that do not require
325 a direct care registered nurse are not included within these
326 ratios and shall be determined pursuant to an acuity-based
327 patient classification system defined by agency rule.

328 1. A health care facility may not assign a direct care
329 registered nurse to a clinical unit unless the health care
330 facility and the direct care registered nurse determine that the
331 nurse has demonstrated competence in providing care in the
332 clinical unit and has also received orientation in the clinical
333 unit's area of specialty which is sufficient to provide
334 competent, safe, therapeutic, and effective care to a patient in
335 that area. The policies and procedures of the health care
336 facility must contain the criteria for making this
337 determination.

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

341 3. A health care facility:

342 a. May not average the number of patients and the total
343 number of direct care registered nurses assigned to patients in
344 a hospital unit or clinical unit during any period for purposes
345 of meeting the requirements under this subsection.

346 b. May not impose mandatory overtime in order to meet the
347 minimum direct care registered nurse staffing levels in the
348 hospital unit or clinical unit which are required under this

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349 subsection.

350 c. Shall ensure that only a direct care registered nurse
351 may relieve another direct care registered nurse during breaks,
352 meals, and routine absences from a hospital unit or clinical
353 unit.

354 d. May not lay off licensed practical nurses, licensed
355 psychiatric technicians, certified nursing assistants, or other
356 ancillary support staff in order to meet the direct care
357 registered nurse staffing levels required in this subsection for
358 a hospital unit or clinical unit.

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

363 5. In the emergency department, only a direct care
364 registered nurse may be assigned to a triage patient or a
365 critical care patient.

366 a. The direct care registered nurse staffing level for
367 triage patients or critical care patients in the emergency
368 department must be one nurse to two or fewer patients at all
369 times.

370 b. At least two direct care registered nurses must be
371 physically present in the emergency department when a patient is
372 present.

373 c. Triage, radio, specialty, or flight registered nurses do
374 not count in the calculation of direct care registered nurse
375 staffing levels. Triage registered nurses may not be assigned
376 the responsibility of the base radio.

377 6. Only a direct care registered nurse may be assigned to a

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378 labor and delivery unit.

379 a. The direct care registered nurse staffing level must be
380 one nurse to one active labor patient, or one patient having
381 medical or obstetrical complications, during the initiation of
382 epidural anesthesia and during circulation for a caesarean
383 section delivery.

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

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

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

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

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

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

403 h. The direct care registered nurse staffing level for
404 unstable newborns and newborns in the resuscitation period as
405 assessed by a direct care registered nurse must be at least one
406 nurse to one patient at all times.

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407 i. The direct care registered nurse staffing level for
408 newborns must be one nurse to four or fewer patients at all
409 times.

410 7. The direct care registered nurse staffing level for
411 patients receiving conscious sedation must be at least one nurse
412 to one patient at all times.

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

417 1. One patient in a trauma emergency unit;

418 2. One patient in an operating room unit. The operating
419 room must have at least one direct care registered nurse
420 assigned to the duties of the circulating registered nurse and a
421 minimum of one additional person as a scrub assistant for each
422 patient-occupied operating room;

423 3. Two patients in a critical care unit, including neonatal
424 intensive care units; emergency critical care and intensive care
425 units; labor and delivery units; coronary care units; acute
426 respiratory care units; postanesthesia units, regardless of the
427 type of anesthesia received; and postpartum units, so that the
428 direct care registered nurse staffing level is one nurse to two
429 or fewer patients at all times;

430 4. Three patients in an emergency room unit; step-down unit
431 or intermediate intensive care unit; pediatric unit; telemetry
432 unit; or combined labor and postpartum unit so that the direct
433 care registered nurse staffing level is one nurse to three or
434 fewer patients at all times;

435 5. Four patients in a surgical unit, antepartum unit,

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436 intermediate care nursery unit, psychiatric unit, or presurgical
437 or other specialty care unit so that the direct care registered
438 nurse staffing level is one nurse to four or fewer patients at
439 all times;

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

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

446 8. Three mother-plus-infant couplets in a postpartum unit
447 so that the direct care registered nurse staffing level is one
448 nurse to three or fewer mother-plus-infant couplets at all
449 times.

450 (c)1. Identifying a hospital unit or clinical unit by a
451 name or term other than those defined in subsection (2) does not
452 affect the requirement of direct care registered nurse staffing
453 levels identified for the level of intensity or type of care
454 described in paragraphs (a) and (b).

455 2. Patients shall be cared for only in hospital units or
456 clinical units in which the level of intensity, type of care,
457 and direct care registered nurse staffing levels meet the
458 individual requirements and needs of each patient. A health care
459 facility may not use an acuity adjustable unit to care for a
460 patient.

461 3. A health care facility may not use a video camera or
462 monitor or any form of electronic visualization of a patient to
463 substitute for the direct observation required for patient
464 assessment by the direct care registered nurse and for patient

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465 protection provided by an attendant.

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

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

472 1. The staffing plan must be in writing and, based on
473 individual patient care needs determined by the acuity-based
474 patient classification system, must specify individual patient
475 care requirements and the staffing levels for direct care
476 registered nurses and other licensed and unlicensed personnel.
477 The direct care registered nurse staffing level on any shift may
478 not fall below the requirements in paragraphs (a) and (b) at any
479 time.

480 2. In addition to the requirements of direct care
481 registered nurse staffing levels in paragraphs (a) and (b), each
482 health care facility shall assign additional nursing staff, such
483 as licensed practical nurses, licensed psychiatric technicians,
484 and certified nursing assistants, through the implementation of
485 a valid acuity-based patient classification system for
486 determining nursing care needs of individual patients which
487 reflects the assessment of patient nursing care requirements
488 made by the assigned direct care registered nurse and which
489 provides for shift-by-shift staffing based on those
490 requirements. The direct care registered nurse staffing levels
491 specified in paragraphs (a) and (b) constitute the minimum
492 number of direct care registered nurses who shall be assigned to
493 provide direct patient care.

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

498 a. The number of patients and acuity level of patients as
499 determined by the application of a patient classification system
500 on a shift-by-shift basis.

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

503 c. The specialized experience required of direct care
504 registered nurses on a particular hospital unit or clinical
505 unit.

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

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

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

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

516 4. A health care facility shall specify the acuity-based
517 patient classification system used to document actual staffing
518 in each unit for each shift.

519 5. A health care facility shall annually evaluate:

520 a. The reliability of the acuity-based patient
521 classification system for validating staffing requirements in
522 order to determine whether the patient classification system

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523 accurately measures individual patient care needs and accurately
524 predicts the staffing requirements for direct care registered
525 nurses, licensed practical nurses, licensed psychiatric
526 technicians, and certified nursing assistants, based exclusively
527 on individual patient needs.

528 b. The validity of the patient classification system.

529 6. A health care facility shall annually update its
530 staffing plan and acuity-based patient classification system to
531 the extent appropriate based on the annual evaluation conducted
532 under subparagraph 5. If the evaluation reveals that adjustments
533 are necessary in order to ensure accuracy in measuring patient
534 care needs, such adjustments must be implemented within 30 days
535 after that determination.

536 7. Any acuity-based patient classification system adopted
537 by a health care facility under this subsection must be
538 transparent in all respects, including disclosure of detailed
539 documentation of the methodology used to predict nursing
540 staffing; an identification of each factor, assumption, and
541 value used in applying such methodology; an explanation of the
542 scientific and empirical basis for each such assumption and
543 value; and certification by a knowledgeable and authorized
544 representative of the health care facility that the disclosures
545 regarding methods used for testing and validating the accuracy
546 and reliability of the patient classification system are true
547 and complete.

548 a. The documentation required by this subparagraph shall be
549 submitted in its entirety to the agency as a mandatory condition
550 of licensure, with a certification by the chief nursing officer
551 of the health care facility that the documentation completely

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552 and accurately reflects implementation of a valid acuity-based
553 patient classification system used to determine nursing service
554 staffing by the facility for each shift on each hospital unit or
555 clinical unit in which patients receive care. The chief nursing
556 officer shall execute the certification under penalty of
557 perjury, and the certification must contain an expressed
558 acknowledgment that any false statement constitutes fraud and is
559 subject to criminal and civil prosecution and penalties.

560 b. Such documentation must be available for public
561 inspection in its entirety in accordance with procedures
562 established by administrative rules adopted by the agency,
563 consistent with the purposes of this section.

564 8. A staffing plan of a health care facility shall be
565 developed and evaluated by a committee created by the health
566 care facility. At least half of the members of the committee
567 must be unit-specific competent direct care registered nurses.

568 a. The chief nursing officer at the facility shall appoint
569 the members who are not direct care registered nurses. The
570 direct care registered nurses on the committee shall be
571 appointed by the chief nursing officer if the direct care
572 registered nurses are not represented by a collective bargaining
573 agreement or by an authorized collective bargaining agent.

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

576 c. This section does not authorize conduct that is
577 prohibited under the National Labor Relations Act or the Federal
578 Labor Relations Act of 1978.

579 9. By July 1, 2019, the agency shall approve uniform
580 statewide standards for a standardized acuity tool for use in

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581 health care facilities. The standardized acuity tool must
582 provide a method for establishing nurse staffing requirements
583 that exceed the required direct care registered nurse staffing
584 levels in the hospital units or clinical units in paragraphs (a)
585 and (b).

586 a. The proposed standards shall be developed by a committee
587 created by the health care facility consisting of up to 20
588 members. At least 11 of the committee members must be currently
589 licensed registered nurses who are employed as direct care
590 registered nurses, and the remaining members must include a
591 sufficient number of technical or scientific experts in the
592 specialized fields who are involved in the design and
593 development of an acuity-based patient classification system
594 that meets the requirements of this section.

595 b. A person who has any employment or any commercial,
596 proprietary, financial, or other personal interest in the
597 development, marketing, or use of a private patient
598 classification system product or related methodology,
599 technology, or component system is not eligible to serve on the
600 development committee. A candidate for appointment to the
601 development committee may not be confirmed as a member until the
602 candidate files a disclosure-of-interest statement with the
603 agency, along with a signed certification of full disclosure and
604 complete accuracy under oath, which provides all necessary
605 information as determined by the agency to demonstrate the
606 absence of actual or potential conflict of interest. All such
607 filings are subject to public inspection.

608 c. Within 1 year after the official commencement of
609 committee operations, the development committee shall provide a

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610 written report to the agency which proposes uniform standards
611 for a valid patient classification system, along with sufficient
612 explanation and justification to allow for competent review and
613 determination of sufficiency by the agency. The agency shall
614 disclose the report to the public upon notice of public hearings
615 and provide a public comment period for proposed adoption of
616 uniform standards for a patient classification system by the
617 agency.

618 10. A hospital shall adopt and implement the acuity-based
619 patient classification system and provide staffing based on the
620 standardized acuity tool. Any additional direct care registered
621 nurse staffing level that exceeds the direct care registered
622 nurse staffing levels described in paragraphs (a) and (b) shall
623 be assigned in a manner determined by such standardized acuity
624 tool.

625 11. A health care facility shall submit to the agency its
626 annually updated staffing plan and acuity-based patient
627 classification system as required under this paragraph.

628 (f)1. In each hospital unit or clinical unit, a health care
629 facility shall post a notice in a form specified by agency rule
630 which:

631 a. Explains the requirements imposed under this subsection;

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

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

636 d. Identifies staffing requirements as determined by the
637 acuity-based patient classification system for each hospital
638 unit or clinical unit, documented and posted in the unit for

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639 public view on a day-to-day, shift-by-shift basis;

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

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

648 2.a. A long-term acute care hospital shall maintain
649 accurate records of actual staffing levels in each hospital unit
650 or clinical unit for each shift for at least 2 years. Such
651 records must include:

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

653 (II) The identity and duty hours of each direct care
654 registered nurse, licensed practical nurse, licensed psychiatric
655 technician, and certified nursing assistant assigned to each
656 patient in the hospital unit or clinical unit for each shift;
657 and

658 (III) A copy of each posted notice.

659 b. A health care facility shall make its staffing plan and
660 acuity-based patient classification system, required under
661 paragraph (e), and all documentation related to the plan and
662 patient classification system, available to the agency; to
663 registered nurses and their collective bargaining
664 representatives, if any; and to the public under rules adopted
665 by the agency.

666 3. The agency shall conduct periodic audits to ensure
667 implementation of the staffing plan in accordance with this

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668 subsection and to ensure the accuracy of the staffing plan and
669 patient classification system required under paragraph (e).

670 (g) A health care facility shall plan for routine
671 fluctuations such as admissions, discharges, and transfers in
672 the patient census. If a declared health care emergency causes a
673 change in the number of patients in a unit, the health care
674 facility must demonstrate that immediate and diligent efforts
675 are made to maintain required staffing levels.

676 (h) The following activities are prohibited:

677 1. The direct assignment of unlicensed personnel by a
678 health care facility to perform functions required of a
679 registered nurse in lieu of care being delivered by a licensed
680 or registered nurse under the clinical supervision of a direct
681 care registered nurse.

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

685 a. Nursing activities that require nursing assessment and
686 judgment during implementation;

687 b. Physical, psychological, or social assessments that
688 require nursing judgment, intervention, referral, or followup;
689 and

690 c. Formulation of a plan of nursing care and evaluation of
691 a patient's response to the care provided, including
692 administration of medication; venipuncture or intravenous
693 therapy; parenteral or tube feedings; invasive procedures,
694 including inserting nasogastric tubes, inserting catheters, or
695 tracheal suctioning; and educating a patient and the patient's
696 family concerning the patient's health care problems, including

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697 postdischarge care. However, a phlebotomist, an emergency room
698 technician, or a medical technician may, under the general
699 supervision of the clinical laboratory director, or his or her
700 designee, or a physician, perform venipunctures in accordance
701 with written hospital policies and procedures.

702 (4) PROFESSIONAL PRACTICE STANDARDS FOR DIRECT CARE
703 REGISTERED NURSES WORKING IN A HEALTH CARE FACILITY.-

704 (a) A direct care registered nurse employing scientific
705 knowledge and experience in the physical, social, and biological
706 sciences, and exercising independent judgment in applying the
707 nursing process, shall directly provide:

708 1. Continuous and ongoing assessments of the patient's
709 condition.

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

712 3. The assessment, planning, implementation, and evaluation
713 of patient education, including ongoing postdischarge education
714 of each patient.

715 4. The delivery of patient care, which must reflect all
716 elements of the nursing process and must include assessment,
717 nursing diagnosis, planning, intervention, evaluation, and, as
718 circumstances require, patient advocacy, and shall be initiated
719 by a direct care registered nurse at the time of admission.

720 5. The nursing plan for the patient care, which shall be
721 discussed with and developed as a result of coordination with
722 the patient, the patient's family or other representatives, when
723 appropriate, and staff of other disciplines involved in the care
724 of the patient.

725 6. An evaluation of the effectiveness of the care plan

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726 through assessments based on direct observation of the patient's
727 physical condition and behavior, signs and symptoms of illness,
728 and reactions to treatment and through communication with the
729 patient and the health care team members, and modification of
730 the plan as needed.

731 7. Information related to the initial assessment and
732 reassessments of the patient, nursing diagnosis, plan,
733 intervention, evaluation, and patient advocacy, which shall be
734 permanently recorded in the patient's medical record as
735 narrative direct care progress notes. The practice of charting
736 by exception is prohibited.

737 (b)1. A patient assessment requires direct observation of
738 the patient's signs and symptoms of illness, reaction to
739 treatment, behavior and physical condition, and interpretation
740 of information obtained from the patient and others, including
741 other caregivers on the health care team. A patient assessment
742 requires data collection by a direct care registered nurse and
743 the analysis, synthesis, and evaluation of such data.

744 2. Only a direct care registered nurse may perform a
745 patient assessment. A licensed practical nurse or licensed
746 psychiatric technician may assist a direct care registered nurse
747 in data collection.

748 (c)1. A direct care registered nurse shall determine the
749 nursing care needs of individual patients through the process of
750 ongoing patient assessments, nursing diagnosis, formulation, and
751 adjustment of nursing care plans.

752 2. The prediction of individual patient nursing care needs
753 for prospective assignment of direct care registered nurses
754 shall be based on individual patient assessments of the direct

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755 care registered nurse assigned to each patient and in accordance
756 with a documented acuity-based patient classification system as
757 provided in subsection (3).

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

770 (e)1. In addition to the prohibition on assignments of
771 patient care tasks provided in paragraph (3)(h), a direct care
772 registered nurse may not assign tasks required to implement
773 nursing care for a patient to other licensed nursing staff or to
774 unlicensed staff unless the assigning direct care registered
775 nurse:

776 a. Determines that the personnel assigned the tasks possess
777 the necessary training, experience, and capability to
778 competently and safely perform the tasks to be assigned; and

779 b. Effectively supervises the clinical functions and
780 nursing care tasks performed by the assigned personnel.

781 2. The exercise of clinical supervision of nursing care
782 personnel by a direct care registered nurse in the performance
783 of the functions as provided in this subsection must be in the

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784 exclusive interest of the patient and may not, for any purpose,
785 be considered, relied upon, or represented as a job function,
786 authority, responsibility, or activity undertaken in any respect
787 for the purpose of serving the business, commercial,
788 operational, or other institutional interests of the health care
789 facility employer, but constitutes the exercise of professional
790 nursing authority and duty exclusively in the interest of the
791 patient.

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

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

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

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

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

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

823 2. If the direct care registered nurse is not competent to
824 perform the care required for a patient assigned for nursing
825 care or if the assignment would expose the patient to risk of
826 harm, the direct care registered nurse may not accept the
827 patient care assignment. Such refusal to accept a patient care
828 assignment is an exercise of the direct care registered nurse's
829 duty and right of patient advocacy.

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

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

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

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

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

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842 1. The assigned task would violate a provision of chapter
843 464 or the rules adopted under that chapter;

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

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

850 (e) In the course of performing the responsibilities and
851 essential functions described in subsection (4), the direct care
852 registered nurse assigned to a patient shall receive orders
853 initiated by physicians and other legally authorized health care
854 professionals within their scope of licensure regarding patient
855 care services to be provided to the patient, including, but not
856 limited to, the administration of medications and therapeutic
857 agents that are necessary to implement a treatment, a
858 rehabilitative regimen, or disease prevention.

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

861 a. In the best interest of the patient;

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

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

866 2. If the direct care registered nurse determines that the
867 criteria provided in subparagraph 1. have not been satisfied
868 with respect to a particular order or if the direct care
869 registered nurse has some doubt regarding the meaning or
870 conformance of the order with such criteria, he or she shall

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871 seek clarification from the initiator of the order, the
872 patient's physician, or another appropriate medical officer
873 before implementing the order.

874 3. If, upon clarification, the direct care registered nurse
875 determines that the criteria for implementation of an order
876 provided in subparagraph 1. have not been satisfied, the direct
877 care registered nurse may refuse implementation on the basis
878 that the order is not in the best interest of the patient.
879 Seeking clarification of an order or refusing an order as
880 described in this subparagraph is an exercise of the direct care
881 registered nurse's duty and right of patient advocacy.

882 (f) A direct care registered nurse shall, as circumstances
883 require, initiate action to improve the patient's health care or
884 to change a decision or activity that, in the professional
885 judgment of the direct care registered nurse, is against the
886 interest or desire of the patient or shall give the patient the
887 opportunity to make informed decisions about the health care
888 before it is provided.

889 (6) FREE SPEECH; PATIENT PROTECTION.-

890 (a) A health care facility may not:

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

898 2. File a complaint or a report against a direct care
899 registered nurse with the Board of Nursing or the agency because

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900 of the direct care registered nurse's refusal of a work
901 assignment pursuant to paragraph (5)(c) or an assigned task
902 pursuant to paragraph (5)(d).

903 (b) A direct care registered nurse who has been discharged,
904 discriminated against, or retaliated against in violation of
905 subparagraph (a)1. or against whom a complaint or a report has
906 been filed in violation of subparagraph (a)2. may bring a cause
907 of action in a state court. A direct care registered nurse who
908 prevails in the cause of action is entitled to one or more of
909 the following:

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

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

- 919 1. Receive and investigate the complaint;
- 920 2. Determine whether a violation of this section as alleged
921 in the complaint has occurred; and
- 922 3. If such a violation has occurred, issue an order
923 prohibiting the health care facility from subjecting the
924 complaining direct care registered nurse, the patient, or the
925 other individual to any retaliation described in paragraph (a).

926 (d)1. A health care facility may not discriminate or
927 retaliate in any manner against any patient, employee, or
928 contract employee of the facility, or any other individual, on

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929 the basis that such individual, in good faith, individually or
930 in conjunction with another person or persons, has presented a
931 grievance or complaint; initiated or cooperated in an
932 investigation or proceeding by a governmental entity, regulatory
933 agency, or private accreditation body; made a civil claim or
934 demand; or filed an action relating to the care, services, or
935 conditions of the health care facility or of any affiliated or
936 related facilities.

937 2. For purposes of this paragraph, an individual is deemed
938 to be acting in good faith if the individual reasonably believes
939 that the information reported or disclosed is true.

940 (e)1. A health care facility may not:

941 a. Interfere with, restrain, or deny the exercise of, or
942 the attempt to exercise, any right provided or protected under
943 this section; or

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

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

950 3. A health care facility, or an individual representing a
951 health care facility, may not make, adopt, or enforce any rule,
952 regulation, policy, or practice that in any manner directly or
953 indirectly prohibits, impedes, or discourages a direct care
954 registered nurse from engaging in free speech or disclosing
955 information as provided under this section.

956 4. A health care facility, or an individual representing a
957 health care facility, may not in any way interfere with the

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958 rights of nurses to organize, bargain collectively, and engage
959 in concerted activity under s. 7 of the National Labor Relations
960 Act.

961 5. A health care facility shall post in an appropriate
962 location in each hospital unit or clinical unit a notice in a
963 form specified by the agency which:

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

966 b. Includes a statement that a nurse, patient, or other
967 individual may file a complaint with the agency against a health
968 care facility that violates this subsection; and

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

970 (f)1. The agency shall establish a toll-free telephone
971 hotline to provide information regarding the requirements of
972 this section and to receive reports of violations of this
973 section.

974 2. A health care facility shall provide each patient
975 admitted to the facility for inpatient care with the toll-free
976 telephone hotline described in subparagraph 1. and shall give
977 notice to each patient that the hotline may be used to report
978 inadequate staffing or care.

979 (7) ENFORCEMENT.—

980 (a) In addition to any other penalty prescribed by law, the
981 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

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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, 2018.