

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 nurse
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
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 direct care registered nurse staffing
35 requirements by a specified date; providing
36 requirements for the committee members who are
37 appointed to develop the uniform standards; requiring
38 health care facilities to annually report certain
39 information to the agency and to post a notice
40 containing such information in each unit of the
41 facility; providing recordkeeping requirements;
42 prohibiting a health care facility from assigning
43 unlicensed personnel to perform functions or tasks
44 that should be performed by a licensed or registered
45 nurse; specifying those actions that constitute
46 professional practice by a direct care registered
47 nurse; requiring that a patient assessment be
48 performed only by a direct care registered nurse;
49 authorizing a direct care registered nurse to assign
50 certain specified activities to other licensed or

51 unlicensed nursing staff under certain circumstances;
52 prohibiting a health care facility from deploying
53 technology that limits certain care provided by a
54 direct care registered nurse; providing applicability;
55 providing that it is a duty and right of a direct care
56 registered nurse to act as the patient's advocate and
57 providing requirements relating thereto; prohibiting a
58 direct care registered nurse from accepting an
59 assignment under specified circumstances; authorizing
60 a direct care registered nurse to refuse to accept an
61 assignment or to perform a task under certain
62 circumstances; requiring a direct care registered
63 nurse to initiate action or to change a decision or an
64 activity relating to a patient's health care under
65 certain circumstances; prohibiting a health care
66 facility from discharging, or from discriminating,
67 retaliating, or filing a complaint or report against,
68 a direct care registered nurse based on such refusal;
69 providing that a direct care registered nurse has a
70 right of action against a health care facility that
71 violates certain provisions; requiring that the agency
72 establish a toll-free telephone hotline to provide
73 certain information and to receive reports of certain
74 violations; requiring that certain information be
75 provided to each patient who is admitted to a health

76 care facility; prohibiting a health care facility from
 77 engaging in certain actions; prohibiting a health care
 78 facility from interfering with the right of direct
 79 care registered nurses to organize, bargain
 80 collectively, and engage in concerted activity under a
 81 federal act; authorizing the agency to impose fines
 82 for violations; requiring that the agency post on its
 83 website information regarding health care facilities
 84 on which civil penalties have been imposed; providing
 85 an effective date.

86

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

88

89 Section 1. Short title.—This act may be cited as the
 90 "Florida Hospital Patient Protection Act."

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

93 395.1014 Health care facility patient care standards.—

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

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

99 (b) Health care services are becoming more complex and it
 100 is increasingly difficult for patients to access integrated

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

115 (c) The basic principles of staffing in hospital settings
116 should be based on the care needs of the individual patient, the
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 direct care registered
122 nurse-to-patient staffing ratios by licensed hospital facilities
123 is 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 direct care
129 registered nurses and patients to notify governmental and
130 private accreditation entities of suspected unsafe patient
131 conditions, including protection against retaliation for
132 refusing unsafe patient care assignments, will greatly enhance
133 the health, 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
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, to meet the needs of individual
156 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 interests of the patient.

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

174 (e) "Declared state of emergency" means an officially
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
 181 nurse or licensed practical nurse, as defined in s. 464.003:

182 1. Who is licensed by the Board of Nursing to engage in
 183 the practice of professional nursing or the practice of
 184 practical 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 interests 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, critical care unit or intensive care unit,
 197 labor and delivery unit, 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
204 care based on the severity of the patient's medical 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;
211 complex monitoring; intensive intricate assessment; evaluation;
212 specialized rapid intervention; and education or teaching of the
213 patient, the patient's family, or other representatives by a
214 competent and experienced direct care registered nurse. The term
215 includes a burn unit, coronary care unit, or acute respiratory
216 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,
233 including all co-occurring morbidities, restorative measures,
234 and level of nursing intensity, requires continuous care through
235 direct observation and monitoring; multiple assessments;
236 specialized interventions; evaluations; and education or
237 teaching of the patient, the patient's family, or other
238 representatives by a competent and experienced direct care
239 registered nurse. The term includes, but is not limited to, a
240 unit established to provide the intensity of care required for a
241 specific medical condition or a specific patient population or
242 to provide more comprehensive care for a specific condition or
243 disease than the care required in a surgical unit.

244 6. "Step-down unit" or "intermediate intensive care unit"
245 means a unit established to safeguard and protect a patient
246 whose severity of illness, including all co-occurring
247 morbidities, restorative measures, and level of nursing
248 intensity, requires intermediate intensive care through direct
249 observation and monitoring; multiple assessments; specialized
250 interventions; evaluations; and education or teaching of the

251 patient, the patient's family, or other representatives by a
252 competent and experienced direct care registered nurse. The term
253 includes a unit established to provide care to patients who have
254 moderate or potentially severe physiological instability
255 requiring technical support, but not necessarily artificial life
256 support. As used in this subparagraph, the term:

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

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

266 7. "Surgical unit" means a unit established to safeguard
267 and protect a patient whose severity of illness, including all
268 co-occurring morbidities, restorative measures, and level of
269 nursing intensity, requires continuous care through direct
270 observation and monitoring; multiple assessments; specialized
271 interventions; evaluations; and education or teaching of the
272 patient, the patient's family, or other representatives by a
273 competent and experienced direct care registered nurse. The term
274 includes a unit established to provide care to patients who
275 require less than intensive care or step-down care; patients who

276 receive 24-hour inpatient general medical care or postsurgical
277 care, or both; and mixed populations of patients of diverse
278 diagnoses and diverse ages, excluding pediatric patients.

279 8. "Telemetry unit" means a unit established to safeguard
280 and protect a patient whose severity of illness, including all
281 co-occurring morbidities, restorative measures, and level of
282 nursing intensity, requires intermediate intensive care through
283 direct observation and monitoring; multiple assessments;
284 specialized interventions; evaluations; and education or
285 teaching of the patient, the patient's family, or other
286 representatives by a competent and experienced direct care
287 registered nurse. The term includes a unit in which specialized
288 equipment is used to provide for the electronic monitoring,
289 recording, retrieval, and display of cardiac electrical signals.

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

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

296 1. An agreed-upon, predetermined, regularly scheduled
297 shift;

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

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

300 (k) "Patient assessment" means the use of critical

301 thinking by a direct care registered nurse, and the
302 intellectually disciplined process of actively and skillfully
303 interpreting, applying, analyzing, synthesizing, or evaluating
304 data obtained through direct observation and communication with
305 others.

306 (1) "Professional judgment" means the intellectual,
307 educated, informed, and experienced process that a direct care
308 registered nurse exercises in forming an opinion and reaching a
309 clinical decision that is in the exclusive interests of the
310 patient and is based upon the analysis of data, information, and
311 scientific evidence.

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

314 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
315 REQUIREMENTS.—

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

325 1. A health care facility may not assign a direct care

326 registered nurse to a clinical unit unless the health care
327 facility and the direct care registered nurse determine that
328 such nurse has demonstrated competence in providing care in the
329 clinical unit and has also received orientation in the clinical
330 unit's area of specialty which is sufficient to provide
331 competent, safe, therapeutic, and effective care to a patient in
332 that unit. The policies and procedures of the health care
333 facility must contain the criteria for making this
334 determination.

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

338 3. A health care facility:

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

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

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

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

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

360 5. In the emergency department, only a direct care
361 registered nurse may be assigned to a triage patient or a
362 critical care patient.

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

367 b. At least two direct care registered nurses must be
368 physically present in the emergency department when a patient is
369 present.

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

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

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

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

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

387 d. In the event of multiple births, the direct care
388 registered nurse staffing level must be one such nurse to six or
389 fewer mother-plus-infant couplets.

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

394 f. The direct care registered nurse staffing level for
395 postpartum patients or postsurgical gynecological patients must
396 be one such nurse to four or fewer patients at all times.

397 g. The direct care registered nurse staffing level for the
398 well-baby nursery must be one such nurse to five or fewer
399 patients at all times.

400 h. The direct care registered nurse staffing level for

401 unstable newborns and newborns in the resuscitation period as
402 assessed by a direct care registered nurse must be at least one
403 such nurse to one patient at all times.

404 i. The direct care registered nurse staffing level for
405 newborns must be one such nurse to four or fewer patients at all
406 times.

407 7. The direct care registered nurse staffing level for
408 patients receiving conscious sedation must be at least one such
409 nurse to one patient at all times.

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

414 1. One patient in a trauma emergency unit;

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

420 3. Two patients in a critical care unit, including
421 neonatal intensive care units; emergency critical care and
422 intensive care units; labor and delivery units; coronary care
423 units; acute respiratory care units; postanesthesia units,
424 regardless of the type of anesthesia administered; and
425 postpartum units, so that the direct care registered nurse

426 staffing level is one such nurse to two or fewer patients at all
427 times;

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

433 5. Four patients in a surgical unit, antepartum unit,
434 intermediate care nursery unit, psychiatric unit, or presurgical
435 or other specialty care unit so that the direct care registered
436 nurse staffing level is one such nurse to four or fewer patients
437 at all times;

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

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

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

448 (c)1. Identifying a hospital unit or clinical unit by a
449 name or term other than those defined in subsection (2) does not
450 affect the requirement of direct care registered nurse staffing

451 levels identified for the level of intensity or type of care
452 described in paragraphs (a) and (b).

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

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

464 (d) The requirements established under this subsection do
465 not apply during a declared state of emergency, as defined in
466 subsection (2), if a health care facility is requested or
467 expected to provide an exceptional level of emergency or other
468 medical services.

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

471 1. The staffing plan must be in writing and, based on
472 individual patient care needs determined by the acuity-based
473 patient classification system, must specify individual patient
474 care requirements and the staffing levels for direct care
475 registered nurses and other licensed and unlicensed personnel.

476 The direct care registered nurse staffing level on any shift may
477 not fall below the requirements in paragraphs (a) and (b) at any
478 time.

479 2. In addition to the requirements of direct care
480 registered nurse staffing levels in paragraphs (a) and (b), each
481 health care facility shall assign additional nursing staff,
482 including, but not limited to, licensed practical nurses,
483 licensed psychiatric technicians, and certified nursing
484 assistants, through the implementation of a valid acuity-based
485 patient classification system for determining nursing care needs
486 of individual patients which reflects the assessment of patient
487 nursing care requirements made by the assigned direct care
488 registered nurse and which provides for shift-by-shift staffing
489 based on those requirements. The direct care registered nurse
490 staffing levels specified in paragraphs (a) and (b) constitute
491 the minimum number of direct care registered nurses who shall be
492 assigned to provide direct patient care.

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

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

500 b. The anticipated admissions, discharges, and transfers

501 of patients during each shift which affect direct patient care.

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

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

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

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

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

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

518 5. A health care facility shall annually evaluate:

519 a. The reliability of the acuity-based patient
520 classification system for validating staffing requirements to
521 determine whether such system accurately measures individual
522 patient care needs and accurately predicts the staffing
523 requirements for direct care registered nurses, licensed
524 practical nurses, licensed psychiatric technicians, and
525 certified nursing assistants, based exclusively on individual

526 patient needs.

527 b. The validity of the acuity-based patient classification
528 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 to ensure accuracy in measuring patient care
534 needs, such adjustments must be implemented within 30 days after
535 such 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 nurse staffing;
540 an identification of each factor, assumption, and value used in
541 applying such methodology; an explanation of the scientific and
542 empirical basis for each such assumption and value; and
543 certification by a knowledgeable and authorized representative
544 of the health care facility that the disclosures regarding
545 methods used for testing and validating the accuracy and
546 reliability of such system are true and complete.

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

551 documentation completely and accurately reflects implementation
552 of a valid acuity-based patient classification system used to
553 determine nurse staffing by the facility for each shift in each
554 hospital unit or clinical unit in which patients receive care.
555 The chief nursing officer shall execute the certification under
556 penalty of perjury, and the certification must contain an
557 expressed acknowledgment that any false statement constitutes
558 fraud and is subject to criminal and civil prosecution and
559 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, 2020, the agency shall approve uniform
580 statewide standards for a standardized acuity tool for use in
581 health care facilities. The standardized acuity tool must
582 provide a method for establishing direct care registered nurse
583 staffing requirements that exceed the required direct care
584 registered nurse staffing levels in the hospital units or
585 clinical units in paragraphs (a) and (b).

586 a. The proposed standards shall be developed by a
587 committee created by the health care facility consisting of up
588 to 20 members. At least 11 of the committee members must be
589 registered nurses who are currently licensed and employed as
590 direct care registered nurses, and the remaining committee
591 members must include a sufficient number of technical or
592 scientific experts in specialized fields who are involved in the
593 design and development of an acuity-based patient classification
594 system 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 committee. A candidate for appointment to the committee may not

601 be confirmed as a member until the candidate files a disclosure-
602 of-interest statement with the agency, along with a signed
603 certification of full disclosure and complete accuracy under
604 oath, which provides all necessary information as determined by
605 the agency to demonstrate the absence of actual or potential
606 conflict of interest. All such filings are subject to public
607 inspection.

608 c. Within 1 year after the official commencement of
609 committee operations, the committee shall provide a written
610 report to the agency that proposes uniform standards for a
611 valid, acuity-based patient classification system, along with a
612 sufficient explanation and justification to allow for competent
613 review and determination of sufficiency by the agency. The
614 agency shall disclose the report to the public upon notice of
615 public hearings and provide a public comment period for proposed
616 adoption of uniform standards for an acuity-based patient
617 classification system by the 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
629 care facility shall post a notice in a form specified by agency
630 rule that:

631 a. Explains the requirements imposed under this
632 subsection;

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

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

637 d. Identifies staffing requirements as determined by the
638 acuity-based patient classification system for each hospital
639 unit or clinical unit, documented and posted in the unit for
640 public view on a day-to-day, shift-by-shift basis;

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

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

649 2.a. A long-term acute care hospital shall maintain
650 accurate records of actual staffing levels in each hospital unit

651 or clinical unit for each shift for at least 2 years. Such
652 records must include:

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

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

659 (III) A copy of each posted notice.

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

666 3. The agency shall conduct periodic audits to ensure
667 implementation of the staffing plan in accordance with this
668 subsection and to ensure the accuracy of the staffing plan and
669 the acuity-based patient classification system required under
670 paragraph (e).

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

676 are made to maintain required staffing levels.

677 (h) The following activities are prohibited:

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

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

687 a. Nursing activities that require nursing assessment and
688 judgment during implementation;

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

692 c. Formulation of a plan of nursing care and evaluation of
693 a patient's response to the care provided, including
694 administration of medication; venipuncture or intravenous
695 therapy; parenteral or tube feedings; invasive procedures,
696 including inserting nasogastric tubes, inserting catheters, or
697 tracheal suctioning; and educating a patient and the patient's
698 family concerning the patient's health care problems, including
699 postdischarge care. However, a phlebotomist, emergency room
700 technician, or medical technician may, under the general

701 supervision of the clinical laboratory director, or his or her
702 designee, or a physician, perform venipunctures in accordance
703 with written hospital policies and procedures.

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

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

710 1. Continuous and ongoing assessments of the patient's
711 condition.

712 2. The planning, clinical supervision, implementation, and
713 evaluation of the nursing care provided to each patient.

714 3. The assessment, planning, implementation, and
715 evaluation of patient education, including the ongoing
716 postdischarge education of each patient.

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

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

726 care of the patient.

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

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

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

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

750 (c)1. A direct care registered nurse shall determine the

751 nursing care needs of individual patients through the process of
752 ongoing patient assessments, nursing diagnosis, formulation, and
753 adjustment of nursing care plans.

754 2. The prediction of individual patient nursing care needs
755 for prospective assignment of direct care registered nurses
756 shall be based on individual patient assessments of the direct
757 care registered nurse assigned to each patient and in accordance
758 with a documented acuity-based patient classification system as
759 required in subsection (3).

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

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

776 unlicensed staff unless the assigning direct care registered
777 nurse:

778 a. Determines that the personnel assigned the nursing care
779 tasks possess the necessary training, experience, and capability
780 to competently and safely perform such tasks; and

781 b. Effectively supervises the clinical functions and
782 nursing care tasks performed by the assigned personnel.

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

794 (f) A health care facility may not deploy technology that
795 limits the direct care provided by a direct care registered
796 nurse in the performance of functions that are part of the
797 nursing process, including the full exercise of independent
798 professional judgment in the assessment, planning,
799 implementation, and evaluation of care, or that limits a direct
800 care registered nurse from acting as a patient advocate in the

801 exclusive interests of the patient. Technology may not be skill
802 degrading, interfere with the direct care registered nurse's
803 provision of individualized patient care, or override the direct
804 care registered nurse's independent professional judgment.

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

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

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

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

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

825 2. If the direct care registered nurse is not competent to

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

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

834 1. The assignment would violate chapter 464 or rules
835 adopted thereunder;

836 2. The assignment would violate subsection (3), subsection
837 (4), or this subsection; or

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

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

844 1. The assigned task would violate chapter 464 or rules
845 adopted thereunder;

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

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

851 license of the direct care registered nurse.

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

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

863 a. In the exclusive interests of the patient;

864 b. Initiated by a person legally authorized to issue the
865 order; and

866 c. Issued in accordance with the applicable laws and rules
867 governing nursing care.

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

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

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

891 (6) FREE SPEECH; PATIENT PROTECTION.—

892 (a) A health care facility may not:

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

900 2. File a complaint or a report against a direct care

901 registered nurse with the Board of Nursing or the agency because
902 of the direct care registered nurse's refusal of an assignment
903 pursuant to paragraph (5) (c) or an assigned task pursuant to
904 paragraph (5) (d).

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

912 1. Reinstatement.

913 2. Reimbursement of lost wages, compensation, and
914 benefits.

915 3. Attorney fees.

916 4. Court costs.

917 5. Other damages.

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

922 1. Receive and investigate the complaint;

923 2. Determine whether a violation of this section as
924 alleged in the complaint has occurred; and

925 3. If such a violation has occurred, issue an order

926 prohibiting the health care facility from subjecting the
 927 complaining direct care registered nurse, the patient, or the
 928 other individual to any retaliation described in paragraph (a).

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

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

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

944 a. Interfere with, restrain, or deny the exercise of, or
 945 the attempt to exercise, any right provided or protected under
 946 this section; or

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

949 2. A health care facility may not discriminate or
 950 retaliate against any person for opposing any facility policy,

951 practice, or action that is alleged to violate, breach, or fail
952 to comply with this section.

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

959 4. A health care facility, or an individual representing a
960 health care facility, may not in any way interfere with the
961 rights of direct care registered nurses to organize, bargain
962 collectively, and engage in concerted activity under s. 7 of the
963 National Labor Relations Act.

964 5. A health care facility shall post in an appropriate
965 location in each hospital unit or clinical unit a notice in a
966 form specified by the agency that:

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

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

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

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

976 section.

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

982 (7) ENFORCEMENT.—

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

985 1. Against a health care facility that violates this
986 section, a civil penalty of up to \$25,000 for each violation,
987 except that the agency shall impose a civil penalty of at least
988 \$25,000 for each violation if the agency determines that the
989 health care facility has a pattern of such violation.

990 2. Against an individual who is employed by a health care
991 facility who violates this section, a civil penalty of up to
992 \$20,000 for each violation.

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

997 Section 3. This act shall take effect July 1, 2019.