

By Senator Braynon

35-01613-19

2019644__

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

35-01613-19

2019644__

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

35-01613-19

2019644__

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:

35-01613-19

2019644__

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

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

395.1014 Health care facility patient care standards.—

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

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

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

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

35-01613-19

2019644__

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

35-01613-19

2019644__

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

35-01613-19

2019644__

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 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

35-01613-19

2019644__

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,

35-01613-19

2019644__

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

35-01613-19

2019644__

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

35-01613-19

2019644__

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

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

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

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

315 (a) A health care facility shall implement a staffing plan
316 that provides for a minimum direct care registered nurse
317 staffing level in accordance with the general requirements set
318 forth in this subsection and the direct care registered nurse
319 staffing levels in a clinical unit as specified in paragraph

35-01613-19

2019644__

320 (b). Staffing levels for patient care tasks that do not require
321 a direct care registered nurse are not included within these
322 ratios and shall be determined pursuant to an acuity-based
323 patient classification system defined by agency rule.

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

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

337 3. A health care facility:

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

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

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

35-01613-19

2019644__

349 unit.

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

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

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

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

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

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

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

375 a. The direct care registered nurse staffing level must be
376 one such nurse to one active labor patient, or one patient
377 having medical or obstetrical complications, during the

35-01613-19

2019644__

378 initiation of epidural anesthesia and during circulation for a
379 caesarean section delivery.

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

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

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

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

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

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

399 h. The direct care registered nurse staffing level for
400 unstable newborns and newborns in the resuscitation period as
401 assessed by a direct care registered nurse must be at least one
402 such nurse to one patient at all times.

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

406 7. The direct care registered nurse staffing level for

35-01613-19

2019644__

407 patients receiving conscious sedation must be at least one such
408 nurse to one patient at all times.

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

413 1. One patient in a trauma emergency unit;

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

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

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

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

35-01613-19

2019644__

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

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

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

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

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

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

462 (d) The requirements established under this subsection do
463 not apply during a declared state of emergency, as defined in
464 subsection (2), if a health care facility is requested or

35-01613-19

2019644__

465 expected to provide an exceptional level of emergency or other
466 medical services.

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

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

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

491 3. In developing the staffing plan, a health care facility
492 shall provide for direct care registered nurse staffing levels
493 that are above the minimum levels required in paragraphs (a) and

35-01613-19

2019644__

494 (b) based upon consideration of the following factors:

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

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

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

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

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

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

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

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

516 5. A health care facility shall annually evaluate:

517 a. The reliability of the acuity-based patient
518 classification system for validating staffing requirements to
519 determine whether such system accurately measures individual
520 patient care needs and accurately predicts the staffing
521 requirements for direct care registered nurses, licensed
522 practical nurses, licensed psychiatric technicians, and

35-01613-19

2019644__

523 certified nursing assistants, based exclusively on individual
524 patient needs.

525 b. The validity of the acuity-based patient classification
526 system.

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

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

545 a. The documentation required by this subparagraph shall be
546 submitted in its entirety to the agency as a mandatory condition
547 of licensure, with a certification by the chief nursing officer
548 of the health care facility that the documentation completely
549 and accurately reflects implementation of a valid acuity-based
550 patient classification system used to determine nurse staffing
551 by the facility for each shift in each hospital unit or clinical

35-01613-19

2019644__

552 unit in which patients receive care. The chief nursing officer
553 shall execute the certification under penalty of perjury, and
554 the certification must contain an expressed acknowledgment that
555 any false statement constitutes fraud and is subject to criminal
556 and civil prosecution and penalties.

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

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

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

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

573 c. This section does not authorize conduct that is
574 prohibited under the National Labor Relations Act or the Federal
575 Labor Relations Act of 1978.

576 9. By July 1, 2020, the agency shall approve uniform
577 statewide standards for a standardized acuity tool for use in
578 health care facilities. The standardized acuity tool must
579 provide a method for establishing direct care registered nurse
580 staffing requirements that exceed the required direct care

35-01613-19

2019644__

581 registered nurse staffing levels in the hospital units or
582 clinical units in paragraphs (a) and (b).

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

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

605 c. Within 1 year after the official commencement of
606 committee operations, the committee shall provide a written
607 report to the agency that proposes uniform standards for a
608 valid, acuity-based patient classification system, along with a
609 sufficient explanation and justification to allow for competent

35-01613-19

2019644__

610 review and determination of sufficiency by the agency. The
611 agency shall disclose the report to the public upon notice of
612 public hearings and provide a public comment period for proposed
613 adoption of uniform standards for an acuity-based patient
614 classification system by the agency.

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

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

625 (f)1. In each hospital unit or clinical unit, a health care
626 facility shall post a notice in a form specified by agency rule
627 that:

628 a. Explains the requirements imposed under this subsection;

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

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

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

637 e. Documents the actual number of staff and the skill mix
638 of such staff in each hospital unit or clinical unit, documented

35-01613-19

2019644__

639 and posted in the unit for public view on a day-to-day, shift-
640 by-shift basis; and

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

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

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

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

655 (III) A copy of each posted notice.

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

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

667 (g) A health care facility shall plan for routine

35-01613-19

2019644__

668 fluctuations such as admissions, discharges, and transfers in
669 the patient census. If a declared state of emergency causes a
670 change in the number of patients in a unit, the health care
671 facility must demonstrate that immediate and diligent efforts
672 are made to maintain required staffing levels.

673 (h) The following activities are prohibited:

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

679 2. The performance of patient care tasks by unlicensed
680 personnel that require the clinical assessment, judgment, and
681 skill of a licensed or registered nurse, including, but not
682 limited to:

683 a. Nursing activities that require nursing assessment and
684 judgment during implementation;

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

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

35-01613-19

2019644__

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

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

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

706 1. Continuous and ongoing assessments of the patient's
707 condition.

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

710 3. The assessment, planning, implementation, and evaluation
711 of patient education, including the ongoing postdischarge
712 education of each patient.

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

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

723 6. An evaluation of the effectiveness of the care plan
724 through assessments based on direct observation of the patient's
725 physical condition and behavior, signs and symptoms of illness,

35-01613-19

2019644__

726 and reactions to treatment, and through communication with the
727 patient and the health care team members, and modification of
728 the plan as needed.

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

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

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

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

750 2. The prediction of individual patient nursing care needs
751 for prospective assignment of direct care registered nurses
752 shall be based on individual patient assessments of the direct
753 care registered nurse assigned to each patient and in accordance
754 with a documented acuity-based patient classification system as

35-01613-19

2019644__

755 required in subsection (3).

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

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

774 a. Determines that the personnel assigned the nursing care
775 tasks possess the necessary training, experience, and capability
776 to competently and safely perform such tasks; and

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

779 2. The exercise of clinical supervision of nursing care
780 personnel by a direct care registered nurse in the performance
781 of the functions as provided in this subsection must be in the
782 exclusive interests of the patient and may not, for any purpose,
783 be considered, relied upon, or represented as a job function,

35-01613-19

2019644__

784 authority, responsibility, or activity undertaken in any respect
785 for the purpose of serving the business, commercial,
786 operational, or other institutional interests of the health care
787 facility employer, but constitutes the exercise of professional
788 nursing authority and duty in the exclusive interests of the
789 patient.

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

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

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

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

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

811 1. Before accepting a patient assignment, a direct care
812 registered nurse must have the necessary knowledge, judgment,

35-01613-19

2019644__

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

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

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

830 1. The assignment would violate chapter 464 or rules
831 adopted thereunder;

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

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

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

840 1. The assigned task would violate chapter 464 or rules
841 adopted thereunder;

35-01613-19

2019644__

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

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

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

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

859 a. In the exclusive interests of the patient;

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

862 c. Issued in accordance with the applicable laws and rules
863 governing nursing care.

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

35-01613-19

2019644__

871 before implementing the order.

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

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

887 (6) FREE SPEECH; PATIENT PROTECTION.-

888 (a) A health care facility may not:

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

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

35-01613-19

2019644__

900 paragraph (5) (d).

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

908 1. Reinstatement.

909 2. Reimbursement of lost wages, compensation, and benefits.

910 3. Attorney fees.

911 4. Court costs.

912 5. Other damages.

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

917 1. Receive and investigate the complaint;

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

920 3. If such a violation has occurred, issue an order
921 prohibiting the health care facility from subjecting the
922 complaining direct care registered nurse, the patient, or the
923 other individual to any retaliation described in paragraph (a).

924 (d)1. A health care facility may not discriminate or
925 retaliate in any manner against any patient, employee, or
926 contract employee of the facility, or any other individual, on
927 the basis that such individual, in good faith, individually or
928 in conjunction with another person or persons, has presented a

35-01613-19

2019644__

929 grievance or complaint; initiated or cooperated in an
930 investigation or proceeding by a governmental entity, regulatory
931 agency, or private accreditation body; made a civil claim or
932 demand; or filed an action relating to the care, services, or
933 conditions of the health care facility or of any affiliated or
934 related facilities.

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

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

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

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

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

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

954 4. A health care facility, or an individual representing a
955 health care facility, may not in any way interfere with the
956 rights of direct care registered nurses to organize, bargain
957 collectively, and engage in concerted activity under s. 7 of the

35-01613-19

2019644__

958 National Labor Relations Act.

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

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

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

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

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

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

977 (7) ENFORCEMENT.—

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

980 1. Against a health care facility that violates this
981 section, a civil penalty of up to \$25,000 for each violation,
982 except that the agency shall impose a civil penalty of at least
983 \$25,000 for each violation if the agency determines that the
984 health care facility has a pattern of such violation.

985 2. Against an individual who is employed by a health care
986 facility who violates this section, a civil penalty of up to

35-01613-19

2019644__

987 \$20,000 for each violation.

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

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