

By Senator Garcia

36-00573-24

2024376__

1 A bill to be entitled
2 An act relating to delivery of patient protection;
3 providing a short title; creating s. 395.1013, F.S.;
4 providing legislative findings; defining terms;
5 requiring health care facilities to implement staffing
6 plans that comply with specified minimum staffing
7 levels for direct care registered nurses; providing
8 construction; prohibiting health care facilities from
9 taking specified actions; requiring such facilities to
10 ensure that certain staffing is maintained; specifying
11 minimum staffing levels for direct care registered
12 nurses based on the hospital or clinical unit setting;
13 requiring that patients be cared for only in hospital
14 or clinical units that meet the specified minimum
15 staffing levels; prohibiting health care facilities
16 from using video cameras or monitors as a substitute
17 for direct observation and assessment by a direct care
18 registered nurse; exempting health care facilities
19 from the minimum staffing level requirements during a
20 declared state of emergency under certain
21 circumstances; providing requirements for any acuity-
22 based patient classification system adopted by a
23 health care facility; providing whistle-blower
24 protections; creating a cause of action; providing
25 remedies; providing for complaints to and
26 administrative actions by the Agency for Health Care
27 Administration; providing civil penalties; requiring
28 the agency to post specified information on its
29 website; providing construction with respect to

36-00573-24

2024376__

30 collective bargaining agreements; prohibiting
31 employers from taking specified actions with respect
32 to employment for certain unionized staff; providing
33 an effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. This act may be cited as the "Florida Patient
38 Protection Act."

39 Section 2. Section 395.1013, Florida Statutes, is created
40 to read:

41 395.1013 Health Care Facility Patient Care Standards.—

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

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

47 (b) The basic principles of staffing in health care
48 facility settings should be based on the health care needs of
49 the individual patient, the severity of the patient's condition,
50 the services needed, and the complexity of providing those
51 services.

52 (c) Mandating the adoption of uniform, minimum, numerical,
53 and specific registered nurse-to-patient staffing ratios by
54 health care facilities is necessary for competent, safe,
55 therapeutic, and effective professional nursing care and for the
56 retention and recruitment of qualified direct care registered
57 nurses.

58 (d) Direct care registered nurses must be able to advocate

36-00573-24

2024376__

59 for their patients without fear of retaliation from their
60 employers. Whistle-blower protections that encourage registered
61 nurses and patients to notify governmental and private
62 accreditation entities of suspected unsafe patient conditions,
63 including protection against retaliation for refusing unsafe
64 patient care assignments, will greatly enhance the health,
65 safety, and welfare of patients.

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

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

71 (a) "Acuity-based patient classification system" or
72 "patient classification system" means an established measurement
73 tool that:

74 1. Predicts registered nursing care requirements for
75 individual patients based on the severity of a patient's
76 illness; the need for specialized equipment and technology; the
77 intensity of required nursing interventions; the complexity of
78 clinical nursing judgment required to design, implement, and
79 evaluate the patient nursing care plan consistent with
80 professional standards; the ability for self-care, including
81 motor, sensory, and cognitive deficits; and the need for
82 advocacy intervention;

83 2. Details the amount of nursing care needed and the
84 additional number of direct care registered nurses and other
85 licensed and unlicensed nursing staff that a health care
86 facility must assign, based on the independent professional
87 judgment of a direct care registered nurse, in order to meet the

36-00573-24

2024376__

88 needs of individual patients at all times; and

89 3. Can be readily understood and used by direct care
90 nursing staff.

91 (b) "Ancillary support staff" means the personnel assigned
92 to assist in providing nursing services for the delivery of
93 safe, therapeutic, and effective patient care, including unit or
94 ward clerks and secretaries, clinical technicians, respiratory
95 therapists, and radiology, laboratory, housekeeping, and dietary
96 personnel.

97 (c) "Clinical supervision" means the assignment and
98 direction of a patient care task required in the implementation
99 of nursing care for a patient to other licensed nursing staff or
100 to unlicensed staff by a direct care registered nurse in the
101 exclusive interest of the patient.

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

106 (e) "Declared state of emergency" means an officially
107 designated state of emergency that has been declared by a
108 federal, state, or local government official who has the
109 authority to declare the state of emergency. The term does not
110 include a state of emergency that results from a labor dispute
111 in the health care industry.

112 (f) "Direct care registered nurse" means a licensed
113 registered nurse whose competence has been documented and who
114 has accepted a direct, hands-on patient care assignment to
115 implement medical and nursing regimens and provide related
116 clinical supervision of patient care while exercising

36-00573-24

2024376__

117 independent professional judgment at all times in the exclusive
118 interest of the patient.

119 (g) "Health care facility" means an acute care hospital,
120 including a long-term acute care hospital, a hospital-based off-
121 campus emergency department, an ambulatory surgical center, or a
122 psychiatric facility licensed under chapter 394.

123 (h) "Hospital unit" or "clinical unit" means a critical
124 care unit or intensive care unit, labor and delivery room,
125 antepartum and postpartum unit, newborn nursery, postanesthesia
126 unit, emergency department, operating room, observation unit,
127 pediatric unit, medical-surgical unit, rehabilitation unit,
128 skilled nursing unit, specialty care unit, step-down unit or
129 intermediate intensive care unit, telemetry unit, or psychiatric
130 unit.

131 1. "Critical care unit" or "intensive care unit" means a
132 nursing unit established to safeguard and protect a patient
133 whose severity of medical condition requires continuous
134 monitoring and complex intervention by a direct care registered
135 nurse and whose restorative measures and level of nursing
136 intensity require intensive care through direct observation and
137 complex monitoring, intensive intricate assessment, evaluation,
138 specialized rapid intervention, and education or teaching of the
139 patient, the patient's family, or other representatives by a
140 direct care registered nurse. The term includes a burn unit, a
141 coronary care unit, an acute respiratory unit, and other
142 critical care settings.

143 2. "Medical-surgical unit" means a unit established to
144 safeguard and protect a patient whose severity of illness,
145 including all co-occurring morbidities, restorative measures,

36-00573-24

2024376__

146 and level of nursing intensity, requires continuous care through
147 direct observation by a direct care registered nurse and
148 monitoring, multiple assessments, specialized interventions,
149 evaluations, and education or teaching of the patient, the
150 patient's family, or other representatives by a competent and
151 experienced direct care registered nurse. These units may
152 include patients requiring less than intensive care or step-down
153 care; patients receiving 24-hour inpatient general medical care,
154 postsurgical care, or both general medical and postsurgical
155 care; and mixed populations of patients of diverse diagnoses and
156 diverse age groups, but excluding pediatric patients.

157 3. "Rehabilitation unit" means a functional clinical unit
158 established to provide rehabilitation services that restore an
159 ill or injured patient to the highest level of self-sufficiency
160 or gainful employment of which he or she is capable in the
161 shortest possible time, compatible with his or her physical,
162 intellectual, and emotional or psychological capabilities, and
163 in accordance with planned goals and objectives.

164 4. "Skilled nursing unit" means a functional clinical unit
165 established to provide skilled nursing care and supportive care
166 to patients whose primary need is for skilled nursing care on a
167 long-term basis and who are admitted after at least a 48-hour
168 period of continuous inpatient care. The term includes, but is
169 not limited to, a unit established to provide medical, nursing,
170 dietary, and pharmaceutical services and activity programs.

171 5. "Specialty care unit" means a unit established to
172 safeguard and protect a patient whose severity of illness,
173 including all co-occurring morbidities and restorative measures,
174 requires direct observation by a direct care registered nurse

36-00573-24

2024376__

175 and monitoring, multiple assessments, specialized interventions,
176 evaluations, and education or teaching of the patient, the
177 patient's family, or other representatives by a competent and
178 experienced direct care registered nurse. The term includes, but
179 is not limited to, a unit, such as a transplant unit,
180 established to provide the intensity of care required for a
181 specific medical condition or a specific patient population or
182 to provide more comprehensive care for a specific condition or
183 disease than the care required in a medical-surgical unit.

184 6. "Step-down unit" or "intermediate intensive care unit"
185 means a unit established to safeguard and protect a patient
186 whose severity of illness, including all co-occurring
187 morbidities, restorative measures, and level of nursing
188 intensity, requires intermediate intensive care through direct
189 observation and monitoring, multiple assessments, specialized
190 interventions, evaluations, and education or teaching of the
191 patient, the patient's family, or other representatives by a
192 direct care registered nurse. The term includes units
193 established to provide care to patients who have moderate or
194 potentially severe physiological instability requiring technical
195 support, which means the use of specialized equipment by a
196 direct care registered nurse in providing for invasive
197 monitoring, telemetry, and mechanical ventilation for the
198 immediate amelioration or remediation of severe pathology for a
199 patient requiring less care than intensive care but more care
200 than that provided in a medical-surgical unit.

201 7. "Telemetry unit" means a unit established to safeguard
202 and protect a patient whose severity of illness, including all
203 co-occurring morbidities, restorative measures, and level of

36-00573-24

2024376__

204 nursing intensity, requires intermediate intensive care through
205 direct observation by a direct care registered nurse and
206 monitoring, multiple assessments, specialized interventions,
207 evaluations, and education or teaching of the patient, the
208 patient's family, or other representatives by a competent and
209 experienced direct care registered nurse. A telemetry unit
210 includes the equipment used to provide for the electronic
211 monitoring, recording, retrieval, and display of cardiac
212 electrical signals.

213 (i) "Long-term acute care hospital" means a hospital or
214 health care facility that specializes in providing long-term
215 acute care to medically complex patients. The term includes a
216 freestanding hospital and a hospital-within-hospital model of a
217 long-term acute care facility.

218 (j) "Overtime" means the hours worked in excess of 40 hours
219 per week.

220 (k) "Patient assessment" means the process of actively and
221 skillfully interpreting, applying, analyzing, synthesizing, or
222 evaluating data obtained through direct observation and
223 communication with others.

224 (l) "Professional judgment" means the intellectual,
225 educated, informed, and experienced process that a direct care
226 registered nurse exercises in forming an opinion and reaching a
227 clinical decision that is in the patient's best interest and is
228 based upon analysis of data, information, and scientific
229 evidence.

230 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
231 REQUIREMENTS.—

232 (a) Each health care facility shall implement a staffing

36-00573-24

2024376__

233 plan that provides for minimum direct care registered nurse
234 staffing levels in accordance with the requirements of this
235 subsection.

236 (b) Staffing levels for patient care tasks that do not
237 require a direct care registered nurse are not included within
238 these ratios and must be determined pursuant to an acuity-based
239 patient classification system defined by agency rule.

240 (c) The direct care registered nurse staffing levels
241 represent the maximum number of patients that may be assigned to
242 one direct care registered nurse at any one time.

243 (d) A health care facility:

244 1. May not average the number of patients and the total
245 number of direct care registered nurses assigned to patients in
246 a hospital unit or clinical unit during any period of time for
247 purposes of meeting the requirements under this subsection.

248 2. May not impose mandatory overtime in order to meet the
249 minimum direct care registered nurse staffing levels in a
250 hospital unit or clinical unit which are required under this
251 subsection.

252 3. May not terminate employment of or refuse to fill
253 vacancies for licensed practical nurses, licensed psychiatric
254 technicians, certified nursing assistants, or other ancillary
255 support staff in order to meet the direct care registered nurse
256 staffing levels in a hospital unit or clinical unit, as required
257 under this subsection.

258 4. Shall ensure that only a direct care registered nurse
259 may relieve another direct care registered nurse during breaks,
260 meals, and routine absences from a hospital unit or clinical
261 unit.

36-00573-24

2024376__

262 (e) Only a direct care registered nurse may be assigned to
263 an intensive care newborn nursery service unit. Such units must
264 have a direct care registered nurse staffing level of one nurse
265 to two or fewer infants at all times.

266 (f) Only a direct care registered nurse may be assigned to
267 a triage patient, and only a direct care registered nurse may be
268 assigned to a critical care patient in the emergency department.

269 1. The direct care registered nurse staffing level for
270 triage patients or critical care patients in the emergency
271 department must be one nurse to two or fewer patients at all
272 times.

273 2. At least two direct care registered nurses must be
274 physically present in the emergency department when a patient is
275 present.

276 3. Registered nurses providing triage, telehealth, private
277 duty, rapid response, or flight services do not count in the
278 calculation of direct care registered nurse staffing levels in
279 the emergency department.

280 4. Triage registered nurses may not be assigned the
281 responsibility of the base radio for the emergency department.

282 (g) Only direct care registered nurses may be assigned to a
283 labor and delivery unit.

284 1. The direct care registered nurse staffing level must be
285 one nurse to one active labor patient or to one patient having
286 medical or obstetrical complications during the initiation of
287 epidural anesthesia and during circulation for a caesarean
288 section delivery.

289 2. The direct care registered nurse staffing level for
290 antepartum patients who are not in active labor must be one

36-00573-24

2024376__

291 nurse to three or fewer patients at all times.

292 3. In the event of a caesarean delivery, the direct care
293 registered nurse staffing level must be one nurse to two or
294 fewer mother-plus-infant couplets.

295 4. In the event of multiple births, the direct care
296 registered nurse staffing level must be one nurse to three or
297 fewer mother-plus-infant couplets.

298 5. The direct care registered nurse staffing level for
299 postpartum areas in which the direct care registered nurse's
300 assignment only consists of mothers must be one nurse to four or
301 fewer patients at all times.

302 6. The direct care registered nurse staffing level for
303 postpartum patients or postsurgical gynecological patients must
304 be one nurse to four or fewer patients at all times.

305 7. The direct care registered nurse staffing level for the
306 well-baby nursery must be one nurse to five or fewer patients at
307 all times.

308 8. The direct care registered nurse staffing level for
309 unstable newborns and newborns in the resuscitation period, as
310 assessed by a direct care registered nurse, must be at least one
311 nurse to one patient at all times.

312 9. The direct care registered nurse staffing level for
313 newborn infants not otherwise described in this paragraph must
314 be one nurse to four or fewer patients at all times.

315 (h) The direct care registered nurse staffing level for
316 patients receiving conscious sedation must be at least one nurse
317 to one patient at all times.

318 (i) A health care facility's staffing plan must provide
319 that, at all times during each shift within a unit of the

36-00573-24

2024376__

320 facility, a direct care registered nurse is assigned to no more
321 than:

322 1. One patient in a trauma emergency unit.

323 2. One patient in an operating room unit. The operating
324 room must have at least one direct care registered nurse
325 assigned to the duties of the circulating registered nurse and a
326 minimum of one additional person as a scrub assistant for each
327 patient-occupied operating room.

328 3. Two patients in a critical care unit, including neonatal
329 intensive care units, emergency critical care units, and
330 intensive care units; labor and delivery units; coronary care
331 units; acute respiratory care units; postanesthesia units,
332 regardless of the type of anesthesia received; and postpartum
333 units, so that the direct care registered nurse staffing level
334 is one nurse to two or fewer patients at all times.

335 4. Four patients in an emergency room unit, pediatrics
336 unit, telemetry unit, oncology unit, or combined labor,
337 delivery, and postpartum unit, so that the direct care
338 registered nurse staffing level is one nurse to four or fewer
339 patients at all times.

340 5. Three patients in a step-down unit or intermediate
341 intensive care unit so that the direct care registered nurse
342 staffing level is one nurse to three or fewer patients at all
343 times.

344 6. Four patients in a medical-surgical unit, antepartum
345 unit, intermediate care nursery unit, psychiatric unit, or
346 presurgical or other specialty care unit, so that the direct
347 care registered nurse staffing level is one nurse to four or
348 fewer patients at all times.

36-00573-24

2024376__

349 7. Five patients in a rehabilitation unit and skilled
350 nursing unit, so that the direct care registered nurse staffing
351 level is one nurse to five or fewer patients at all times.

352 (j) Identifying a hospital unit or clinical unit by a name
353 or term does not affect the requirement of direct care
354 registered nurse staffing level identified for the level of
355 intensity or type of care.

356 (k) Patients must be cared for only in hospital units or
357 clinical units in which the level of intensity, type of care,
358 and direct care registered nurse staffing levels meet the
359 individual requirements and needs of each patient.

360 (l) A health care facility may not use a video camera or
361 monitor or any form of electronic visualization of a patient to
362 substitute for the direct observation required for patient
363 assessment by the direct care registered nurse or for patient
364 protection requiring an in-person attendant.

365 (m) The requirements established under this subsection do
366 not apply during a declared state of emergency if a health care
367 facility is requested or expected to provide an exceptional
368 level of emergency or other medical services.

369 (n) Any acuity-based patient classification system adopted
370 by a health care facility under this subsection must be
371 transparent in all respects, including disclosure of detailed
372 documentation of the methodology used to predict nursing
373 staffing; an identification of each factor, assumption, and
374 value used in applying such methodology; an explanation of the
375 scientific and empirical basis for each such assumption and
376 value; and certification by a knowledgeable and authorized
377 representative of the health care facility that the disclosures

36-00573-24

2024376__

378 regarding methods used for testing and validating the accuracy
379 and reliability of the system are true and complete.

380 (4) WHISTLE-BLOWER PROTECTIONS.—

381 (a) A health care facility may not:

382 1. Discharge, discriminate against, or retaliate against in
383 any manner, with respect to any aspect of employment, including
384 discharge, promotion, compensation, or terms, conditions, or
385 privileges of employment, a direct care registered nurse based
386 on the nurse's refusal of a work assignment pursuant to this
387 section.

388 2. File a complaint or a report against a direct care
389 registered nurse with the Board of Nursing or the agency because
390 of the nurse's refusal of a work assignment pursuant to this
391 section.

392 (b) A direct care registered nurse who has been discharged,
393 disciplined, discriminated against, or retaliated against in
394 violation of this section or against whom a complaint or a
395 report has been filed in violation of this section may bring a
396 cause of action in a state court and does not need to exhaust
397 any other cause of action to do so. A direct care registered
398 nurse who prevails in the cause of action is entitled to the
399 following:

400 1. Reinstatement.

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

402 3. Attorney fees.

403 4. Court costs.

404 5. Other damages.

405 (c) A direct care registered nurse, patient, or other
406 individual may file a complaint with the agency against a health

36-00573-24

2024376__

407 care facility that violates this section. For any complaint
408 filed, the agency shall:

409 1. Receive and investigate the complaint;

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

412 3. If such a violation has occurred, issue an order that
413 the complaining nurse, patient, or other individual not suffer
414 any retaliation.

415 (d) A health care facility may not discriminate or
416 retaliate in any manner against any patient, employee, or
417 contract employee of the facility, or any other individual, on
418 the basis that such individual, in good faith, individually or
419 in conjunction with another person or persons, has presented a
420 grievance or complaint; initiated or cooperated in an
421 investigation or proceeding by a governmental entity, regulatory
422 agency, or private accreditation body; made a civil claim or
423 demand; or filed an action relating to the care, services, or
424 conditions of the health care facility or of any affiliated or
425 related facilities. For purposes of this paragraph, an
426 individual is deemed to be acting in good faith if the
427 individual reasonably believes the information reported or
428 disclosed is true and that a violation of this section has
429 occurred or may occur.

430 (5) ENFORCEMENT.—

431 (a) In addition to any other penalties prescribed by law,
432 the agency may impose a civil penalty of up to \$25,000 for each
433 violation of this section; however, the agency shall impose a
434 civil penalty of at least \$25,000 for each such violation if the
435 agency determines that the health care facility has a pattern of

36-00573-24

2024376__

436 practice of such violation.

437 (b) The agency shall post on its website the names of
438 health care facilities against which civil penalties have been
439 imposed under this subsection and any other information the
440 agency deems necessary.

441 (6) COLLECTIVE BARGAINING AGREEMENTS.—If any provision of
442 this section is in conflict with any collective bargaining
443 agreement applying to employees covered by this section, the
444 terms and conditions of that collective bargaining agreement
445 prevail over this section except when this section provides for
446 a lower ratio of patients to employee staffing. An employer may
447 not impose upon any unionized nursing staff or other unionized
448 staff any changes in wages, hours, or other terms and conditions
449 of employment pursuant to this section.

450 Section 3. This act shall take effect January 1, 2025.