HB 187

A bill to be entitled
An act relating to staffing ratios in health care
facilities; creating the "Florida Hospital Patient
Protection Act": creating s. 395.1014, F.S.; providing
legislative findings; defining terms; requiring
minimum direct care registered nurse staffing levels
in a health care facility; requiring that each health
care facility implement a staffing plan; prohibiting a
health care facility from imposing mandatory overtime
and certain other actions; specifying the required
ratios of direct care registered nurses to patients
for each type of care provided; prohibiting a health
care facility from using an acuity adjustable unit to
care for a patient; prohibiting a health care facility
from using video cameras or monitors as substitutes
for the required level of care; providing an exception
during a declared state of emergency; requiring that
the chief nursing officer of a health care facility,
or his or her designee, prepare a written staffing
plan that meets the direct care registered nurse
staffing levels required by the act; requiring that a
health care facility annually evaluate its actual
direct care registered nurse staffing levels and
update the staffing plan based on the evaluation;
requiring that certain documentation be submitted to
the Agency for Health Care Administration and be made

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available for public inspection; requiring that the
agency develop uniform standards for use by health
care facilities in establishing nurse staffing
requirements; providing requirements for the committee
members who are appointed to develop the uniform
standards; requiring health care facilities to
annually report certain information to the agency and
post a notice containing such information in each unit
of the facility; prohibiting a health care facility
from assigning unlicensed personnel to perform
functions or tasks that are performed by a licensed or
registered nurse; specifying those actions that
constitute professional practice by a direct care
registered nurse; requiring that a patient assessment
be performed only by a direct care registered nurse;
authorizing a direct care registered nurse to assign
certain specified activities to other licensed or
unlicensed nursing staff; prohibiting a health care
facility from deploying technology that limits certain
care provided by a direct care registered nurse;
providing that it is a duty and right of a direct care
registered nurse to act as the patient's advocate;
providing certain requirements with respect to such
duty; authorizing a direct care registered nurse to
refuse to perform certain activities if he or she
determines that it is not in the best interest of the
patient; authorizing a direct care registered nurse to refuse an assignment under certain circumstances; prohibiting a health care facility from discharging, discriminating against, or retaliating against a nurse based on such refusal; providing that a direct care registered nurse has a right of action against a health care facility that violates certain provisions of the act; requiring that the agency establish a toll-free telephone hotline to provide information and to receive reports of violations of the act; requiring that certain information be provided to each patient who is admitted to a health care facility; prohibiting a health care facility from interfering with the right of nurses to organize or bargain collectively; authorizing the agency to impose fines for violations of the act; requiring that the agency post on its website information regarding health care facilities that have violated the act; providing an effective date.

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

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

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

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

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

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

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

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

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

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

(c) "Clinical supervision" means the assignment and direction of a patient care task required in the implementation of nursing care for a patient to other licensed nursing staff or to unlicensed staff by a direct care registered nurse in the exclusive interest of the patient.
(d) "Competence" means the ability of a direct care registered nurse to act and integrate the knowledge, skill, abilities, and independent professional judgment that underpin safe, therapeutic, and effective patient care.

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

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

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

(h) "Hospital unit" or "clinical unit" means a critical care or intensive care unit, labor and delivery room, antepartum and postpartum unit, newborn nursery, postanesthesia unit, emergency department, operating room, pediatric unit, surgical unit, rehabilitation unit, skilled nursing unit, specialty care

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unit, step-down unit or intermediate intensive care unit, telemetry unit, or psychiatric unit.

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

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

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

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

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

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

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

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

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

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

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

(j) "Long-term acute care hospital" means a hospital or
health care facility that specializes in providing long-term
acute care to medically complex patients. The term includes a
freestanding and hospital-within-hospital model of a long-term
acute care facility.
(k) "Overtime" means the hours worked in excess of:
1. An agreed-upon, predetermined, regularly scheduled shift;
2. Twelve hours in a 24-hour period; or
3. Eighty hours in a 14-day period.

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

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

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

(3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL REQUIREMENTS.—
(a) Each health care facility shall implement a staffing plan that provides for a minimum direct care registered nurse staffing level in accordance with the general requirements set forth in this subsection and the directed care registered nurse staffing levels in a clinical unit as specified in paragraph (b). Staffing levels for patient care tasks that do not require
a direct care registered nurse are not included within these ratios and shall be determined pursuant to an acuity-based patient classification system defined by agency rule.

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

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

3. A health care facility:
   a. May not average the number of patients and the total number of direct care registered nurses assigned to patients in a hospital unit or clinical unit during any period of time for purposes of meeting the requirements under this subsection.
   b. May not impose mandatory overtime in order to meet the minimum direct care registered nurse staffing levels in the hospital unit or clinical unit which are required under this subsection.
   c. Shall ensure that only a direct care registered nurse
may relieve another direct care registered nurse during breaks, meals, and routine absences from a hospital unit or clinical unit.

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

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

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

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

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

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

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

6. Only a direct care registered nurse may be assigned to a labor and delivery unit.
   a. The direct care registered nurse staffing level must be one nurse to one active labor patient, or one patient having medical or obstetrical complications, during the initiation of epidural anesthesia and during circulation for a caesarean section delivery.
   b. The direct care registered nurse staffing level for antepartum patients who are not in active labor must be one nurse to three or fewer patients at all times.
   c. In the event of a caesarean delivery, the direct care registered nurse staffing level must be one nurse to four or fewer mother-plus-infant couplets.
   d. In the event of multiple births, the direct care registered nurse staffing level must be one nurse to six or fewer mother-plus-infant couplets.
   e. The direct care registered nurse staffing level for postpartum areas in which the direct care registered nurse's assignment consists of only mothers must be one nurse to four or fewer patients at all times.
   f. The direct care registered nurse staffing level for postpartum patients or postsurgical gynecological patients must be one nurse to four or fewer patients at all times.
   g. The direct care registered nurse staffing level for the well-baby nursery must be one nurse to five or fewer patients at all times.
all times.

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

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

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

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

1. One patient in a trauma emergency unit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. In developing the staffing plan, a health care facility shall provide for direct care registered nurse staffing levels that are above the minimum levels required in paragraphs (a) and (b) based upon consideration of the following factors:
   a. The number of patients and acuity level of patients as determined by the application of an acuity system on a shift-by-shift basis.
   b. The anticipated admissions, discharges, and transfers of patients during each shift which affect direct patient care.
   c. The specialized experience required of direct care registered nurses on a particular hospital unit or clinical unit.
   d. Staffing levels of other health care personnel who provide services for direct patient care needs which normally do
not require care by a direct care registered nurse.

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

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

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

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

5. A health care facility shall annually evaluate:

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

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

6. A health care facility shall annually update its staffing plan and acuity system to the extent appropriate based on the annual evaluation conducted under subparagraph 5. If the evaluation reveals that adjustments are necessary in order to ensure accuracy in measuring patient care needs, such adjustments must be implemented within 30 days after that
7. Any acuity-based patient classification system adopted by a health care facility under this subsection must be transparent in all respects, including disclosure of detailed documentation of the methodology used to predict nursing staffing; an identification of each factor, assumption, and value used in applying such methodology; an explanation of the scientific and empirical basis for each such assumption and value; and certification by a knowledgeable and authorized representative of the health care facility that the disclosures regarding methods used for testing and validating the accuracy and reliability of the system are true and complete.

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

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

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

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

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

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

9. By July 1, 2017, the agency shall approve uniform statewide standards for a standardized acuity tool for use in health care facilities. The standardized acuity tool shall provide a method for establishing nurse staffing requirements that exceed the required direct care registered nurse staffing levels in the hospital units or clinical units in paragraphs (a) and (b).

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

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

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

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

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

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

a. Explains the requirements imposed under this subsection;

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

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

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

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

and

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

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

(I) The number of patients in each unit;

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

and

(III) A copy of each posted notice.

b. Each health care facility shall make its records
maintained under paragraph (e) available to the agency; to
registered nurses and their collective bargaining
representatives, if any; and to the public under rules adopted
by the agency.
3. The agency shall conduct periodic audits to ensure implementation of the staffing plan in accordance with this subsection and to ensure the accuracy of records maintained under paragraph (e).

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

(h) The following activities are prohibited:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b)1. A patient assessment requires direct observation of the patient's signs and symptoms of illness, reaction to treatment, behavior and physical condition, and interpretation of information obtained from the patient and others, including other caregivers on the health care team. A patient assessment requires data collection by a direct care registered nurse and the analysis, synthesis, and evaluation of such data.
2. Only a direct care registered nurse may perform a patient assessment. A licensed practical nurse or licensed psychiatric technician may assist a direct care registered nurse in data collection.

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

2. The prediction of individual patient nursing care needs for prospective assignment of direct care registered nurses shall be based on individual patient assessments of the direct care registered nurse assigned to each patient and in accordance with a documented patient classification system as provided in subsection (3).

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

1. Current documented, demonstrated, and validated competency is required for each direct care registered nurse and must be determined based on the satisfactory performance of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The assignment would violate a provision of chapter 464 or the rules adopted under that chapter;
2. The assignment would violate subsection (3), subsection (4), or this subsection; or

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

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

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

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

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

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

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

   a. In the best interest of the patient;
   b. Initiated by a person legally authorized to issue the
      order; or
   c. Issued in accordance with applicable law and rules
      governing nursing care.

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

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

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

(6) FREE SPEECH; PATIENT PROTECTION.—
(a) A health care facility may not:
   1. Discharge, discriminate against, or retaliate against
      in any manner with respect to any aspect of employment,
      including discharge, promotion, compensation, or terms,
      conditions, or privileges of employment, a direct care
      registered nurse based on the nurse's refusal of a work
      assignment pursuant to paragraph (5)(c) or an assigned task
      pursuant to paragraph (5)(d).
   2. File a complaint or a report against a direct care
      registered nurse with the Board of Nursing or the agency because
      of the nurse's refusal of a work assignment pursuant to
      paragraph (5)(c) or an assigned task pursuant to paragraph
      (5)(d).
(b) A direct care registered nurse who has been
    discharged, discriminated against, or retaliated against in
    violation of this section or against whom a complaint or a
    report has been filed in violation of subparagraph (a)2. may
    bring a cause of action in a state court. A direct care
    registered nurse who prevails in the cause of action is entitled
    to one or more of the following:
    1. Reinstatement.
    2. Reimbursement of lost wages, compensation, and
       benefits.
3. Attorney fees.
4. Court costs.
5. Other damages.

(c) A direct care registered nurse, patient, or other individual may file a complaint with the agency against a health care facility that violates this section. For any complaint filed, the agency shall:
    1. Receive and investigate the complaint;
    2. Determine whether a violation of this section as alleged in the complaint has occurred; and
    3. If such a violation has occurred, issue an order that the complaining nurse, patient, or other individual not suffer any retaliation described paragraph (a).

(d) 1. The agency shall provide for the establishment of a toll-free telephone hotline to provide information regarding the requirements of this subsection and to receive reports of violations of this subsection.
    2. A health care facility shall provide each patient admitted to the facility for inpatient care with the toll-free telephone hotline described in subparagraph 1. and shall give notice to each patient that the hotline may be used to report inadequate staffing or care.

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

2. For purposes of this paragraph, an individual is deemed
to be acting in good faith if the individual reasonably
believes:
   a. The information reported or disclosed is true; and
   b. A violation of this section has occurred or may occur.
(f)1. A health care facility may not:
   a. Interfere with, restrain, or deny the exercise of, or
      the attempt to exercise, any right provided or protected under
      this section; or
      b. Coerce or intimidate any person regarding the exercise
         of, or the attempt to exercise, such right.

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

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

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

5. A health care facility shall post in an appropriate location in each hospital unit or clinical unit a conspicuous notice in a form specified by the agency which:
   a. Explains the rights of nurses, patients, and other individuals under this subsection;
   b. Includes a statement that a nurse, patient, or other individual may file a complaint with the agency against a health care facility that violates this subsection; and
   c. Provides instructions on how to file a complaint.

7) ENFORCEMENT.—
   (a) In addition to any other penalties prescribed by law, the agency may impose civil penalties as follows:
   1. Against a health care facility found to have violated a provision of this section, a civil penalty of up to $25,000 for each violation, except that the agency shall impose a civil penalty of at least $25,000 for each violation if the agency determines that the health care facility has a pattern of practice of such violation.
   2. Against an individual who is employed by a health care facility and

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facility and who is found to have violated a provision of this section, a civil penalty of up to $20,000 for each violation.

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

Section 3. This act shall take effect July 1, 2016.