

1 A bill to be entitled
2 An act relating to delivery of nursing services;
3 creating the "Florida Hospital Patient Protection
4 Act"; creating s. 395.1014, F.S.; providing
5 legislative findings; defining terms; requiring that
6 each health care facility implement a staffing plan
7 that provides minimum direct care registered nursing
8 staffing levels; requiring a direct care registered
9 nurse to demonstrate competence and to receive
10 specified orientation before being assigned to a
11 hospital or clinical unit; prohibiting a health care
12 facility from imposing mandatory overtime and from
13 engaging in certain other actions; providing
14 requirements for the staffing plan; specifying the
15 required ratios of direct care registered nurses to
16 patients for each type of care provided; prohibiting a
17 health care facility from using an acuity adjustable
18 unit to care for a patient; prohibiting a health care
19 facility from using video cameras or monitors as
20 substitutes for the required level of care; providing
21 an exception during a declared state of emergency;
22 requiring that the chief nursing officer of a health
23 care facility, or his or her designee, develop a
24 staffing plan that meets the required direct care
25 registered nurse staffing levels; requiring that a

26 health care facility annually evaluate its actual
27 direct care registered nurse staffing levels and
28 update the staffing plan and acuity-based patient
29 classification system; requiring that certain
30 documentation be submitted to the Agency for Health
31 Care Administration and be made available for public
32 inspection; requiring that the agency approve uniform
33 standards for use by health care facilities in
34 establishing nurse staffing requirements by a
35 specified date; providing requirements for the
36 committee members who are appointed to develop the
37 uniform standards; requiring health care facilities to
38 annually report certain information to the agency and
39 to post a notice containing such information in each
40 unit of the facility; providing recordkeeping
41 requirements; prohibiting a health care facility from
42 assigning unlicensed personnel to perform functions or
43 tasks that are performed by a licensed or registered
44 nurse; specifying those actions that constitute
45 professional practice by a direct care registered
46 nurse; requiring that a patient assessment be
47 performed only by a direct care registered nurse;
48 authorizing a direct care registered nurse to assign
49 certain specified activities to other licensed or
50 unlicensed nursing staff under certain circumstances;

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

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

85

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

87

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

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

92 395.1014 Health care facility patient care standards.—

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

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

98 (b) Health care services are becoming more complex and it
 99 is increasingly difficult for patients to access integrated
 100 services. Competent, safe, therapeutic, and effective patient

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

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

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

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

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

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

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

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

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

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

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

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

174 (e) "Declared state of emergency" means an officially
175 designated state of emergency that has been declared by a

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

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

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

185 2. Whose competence has been documented; and

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

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

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

201 care unit, surgical unit, telemetry unit, or psychiatric unit.

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

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

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

224 4. "Skilled nursing unit" means a functional clinical unit
225 established to provide skilled nursing care and supportive care

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

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

245 6. "Step-down unit" or "intermediate intensive care unit"
246 means a unit established to safeguard and protect a patient
247 whose severity of illness, including all co-occurring
248 morbidities, restorative measures, and level of nursing
249 intensity, requires intermediate intensive care through direct
250 observation by a direct care registered nurse and monitoring,

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

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

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

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

276 care registered nurse. These units may include patients
277 requiring less than intensive care or step-down care; patients
278 receiving 24-hour inpatient general medical care, postsurgical
279 care, or both general medical and postsurgical care; and mixed
280 populations of patients of diverse diagnoses and diverse ages,
281 but excluding pediatric patients.

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

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

299 (j) "Overtime" means the hours worked in excess of:
300 1. An agreed-upon, predetermined, regularly scheduled

301 shift;

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

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

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

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

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

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

320 (a) A health care facility shall implement a staffing plan
321 that provides for a minimum direct care registered nurse
322 staffing level in accordance with the general requirements set
323 forth in this subsection and the directed care registered nurse
324 staffing levels in a clinical unit as specified in paragraph
325 (b). Staffing levels for patient care tasks that do not require

326 a direct care registered nurse are not included within these
327 ratios and shall be determined pursuant to an acuity-based
328 patient classification system defined by agency rule.

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

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

342 3. A health care facility:

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

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

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

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

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

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

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

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

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

376 staffing levels. Triage registered nurses may not be assigned
377 the responsibility of the base radio.

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

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

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

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

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

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

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

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

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

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

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

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

418 1. One patient in a trauma emergency unit;

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

424 3. Two patients in a critical care unit, including
425 neonatal intensive care units; emergency critical care and

426 intensive care units; labor and delivery units; coronary care
427 units; acute respiratory care units; postanesthesia units,
428 regardless of the type of anesthesia received; and postpartum
429 units, so that the direct care registered nurse staffing level
430 is one nurse to two or fewer patients at all times;

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

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

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

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

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

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

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

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

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

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

473 1. The staffing plan must be in writing and, based on
474 individual patient care needs determined by the acuity-based
475 patient classification system, must specify individual patient

476 care requirements and the staffing levels for direct care
477 registered nurses and other licensed and unlicensed personnel.
478 The direct care registered nurse staffing level on any shift may
479 not fall below the requirements in paragraphs (a) and (b) at any
480 time.

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

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

499 a. The number of patients and acuity level of patients as
500 determined by the application of a patient classification system

501 on a shift-by-shift basis.

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

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

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

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

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

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

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

520 5. A health care facility shall annually evaluate:

521 a. The reliability of the acuity-based patient
522 classification system for validating staffing requirements in
523 order to determine whether the patient classification system
524 accurately measures individual patient care needs and accurately
525 predicts the staffing requirements for direct care registered

526 nurses, licensed practical nurses, licensed psychiatric
527 technicians, and certified nursing assistants, based exclusively
528 on individual patient needs.

529 b. The validity of the patient classification system.

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

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

549 a. The documentation required by this subparagraph shall
550 be submitted in its entirety to the agency as a mandatory

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

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

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

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

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

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

581 9. By July 1, 2019, the agency shall approve uniform
582 statewide standards for a standardized acuity tool for use in
583 health care facilities. The standardized acuity tool must
584 provide a method for establishing nurse staffing requirements
585 that exceed the required direct care registered nurse staffing
586 levels in the hospital units or clinical units in paragraphs (a)
587 and (b).

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

597 b. A person who has any employment or any commercial,
598 proprietary, financial, or other personal interest in the
599 development, marketing, or use of a private patient
600 classification system product or related methodology,

601 technology, or component system is not eligible to serve on the
602 development committee. A candidate for appointment to the
603 development committee may not be confirmed as a member until the
604 candidate files a disclosure-of-interest statement with the
605 agency, along with a signed certification of full disclosure and
606 complete accuracy under oath, which provides all necessary
607 information as determined by the agency to demonstrate the
608 absence of actual or potential conflict of interest. All such
609 filings are subject to public inspection.

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

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

626 tool.

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

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

633 a. Explains the requirements imposed under this
634 subsection;

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

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

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

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

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

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

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

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

661 (III) A copy of each posted notice.

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

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

673 (g) A health care facility shall plan for routine
674 fluctuations such as admissions, discharges, and transfers in
675 the patient census. If a declared health care emergency causes a

676 change in the number of patients in a unit, the health care
677 facility must demonstrate that immediate and diligent efforts
678 are made to maintain required staffing levels.

679 (h) The following activities are prohibited:

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

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

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

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

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

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

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

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

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

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

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

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

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

726 appropriate, and staff of other disciplines involved in the care
727 of the patient.

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

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

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

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

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

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

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

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

776 nursing care for a patient to other licensed nursing staff or to
777 unlicensed staff unless the assigning direct care registered
778 nurse:

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

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

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

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

801 care registered nurse from acting as a patient advocate in the
802 exclusive interest of the patient. Technology may not be skill
803 degrading, interfere with the direct care registered nurse's
804 provision of individualized patient care, or override the direct
805 care registered nurse's independent professional judgment.

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

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

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

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

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

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

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

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

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

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

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

845 1. The assigned task would violate a provision of chapter
846 464 or the rules adopted under that chapter;

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

849 3. The direct care registered nurse is not prepared by
850 education, training, or experience to fulfill the assigned task

851 without compromising the safety of a patient or jeopardizing the
852 license of the direct care registered nurse.

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

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

864 a. In the best interest of the patient;

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

867 c. Issued in accordance with applicable law and rules
868 governing nursing care.

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

876 before implementing the order.

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

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

892 (6) FREE SPEECH; PATIENT PROTECTION.—

893 (a) A health care facility may not:

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

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

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

- 913 1. Reinstatement.
914 2. Reimbursement of lost wages, compensation, and
915 benefits.
916 3. Attorney fees.
917 4. Court costs.
918 5. Other damages.

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

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

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

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

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

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

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

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

950 2. A health care facility may not discriminate or

951 retaliate against any person for opposing any facility policy,
952 practice, or action that is alleged to violate, breach, or fail
953 to comply with any provision of this section.

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

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

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

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

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

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

974 (f)1. The agency shall establish a toll-free telephone
975 hotline to provide information regarding the requirements of

976 this section and to receive reports of violations of this
977 section.

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

983 (7) ENFORCEMENT.—

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

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

992 2. Against an individual who is employed by a health care
993 facility and who is found to have violated a provision of this
994 section, a civil penalty of up to \$20,000 for each violation.

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

999 Section 3. This act shall take effect July 1, 2018.