A bill to be entitled
An act relating to health care; creating the “Florida Hospital Patient Protection Act”; providing legislative findings; providing definitions; providing minimum staffing level requirements for the ratio of direct care registered nurses to patients in a health care facility; requiring that each health care facility implement a staffing plan; prohibiting the imposition of mandatory overtime and certain other actions by a health care facility; specifying the required nurse-to-patient ratios for each type of care provided; prohibiting the use of video cameras or monitors by a health care facility as a substitute for the required level of care; requiring that the chief nursing officer of a health care facility prepare a written staffing plan that meets the staffing levels required by the act; requiring that a health care facility annually evaluate its actual 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 made 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 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 interests of the
patient; providing that a direct care registered nurse
may refuse to accept an assignment under certain
circumstances; prohibiting a health care facility from
discharging, discriminating, 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 for Health Care
Administration 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 in 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.—Sections 1 through 8 of this act
may be cited as the “Florida Hospital Patient Protection Act.”

Section 2. Legislative findings.—The Legislature finds
that:

(1) 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.

(2) Health care services are becoming more complex and it
is increasingly difficult for patients to access integrated
services. Competent, safe, therapeutic, and effective patient
care is jeopardized because of staffing changes implemented in
response to market-driven managed care. To ensure effective
protection of patients in acute care settings, it is essential
that qualified direct care registered nurses be accessible and
available to meet the individual needs of the patient at all
times. In order to ensure the health and welfare of state
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 fiduciary duty to care for assigned patients and a necessary duty of individual and collective patient advocacy in order to satisfy professional fiduciary obligations.

(3) 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.

(4) Direct care registered nurses must be able to advocate for their patients without fear of retaliation from their employer. 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, welfare, and safety of patients.

(5) 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 schemes.

Section 3. Definitions.—As used in sections 1 through 8 of this act, the term:

(1) “Acuity-based patient classification system,” “acuity system,” or “patient classification system” means an established measurement tool that:

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

(b) 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 the direct care registered nurse, in order to meet the individual patient needs at all times; and

(c) Is stated in terms that can be readily used and understood by direct care nursing staff.

(2) “Agency” means the Agency for Health Care Administration.

(3) “Ancillary support staff” means the personnel assigned to assist in providing nursing services in 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.

(4) “Clinical judgment” means the application of the direct care registered nurse’s knowledge, skill, expertise, and experience in making independent decisions about patient care.

(5) “Clinical supervision” means the assignment and direction of patient care tasks required in the implementation of nursing care for patients to other licensed nursing staff or to unlicensed staff by a direct care registered nurse in the exclusive interests of the patients.

(6) “Competence” means the ability of the direct care registered nurse to act and integrate the knowledge, skills, abilities, and independent professional judgment that underpin safe, therapeutic, and effective patient care. Current documented, demonstrated, and validated competency is required for all direct care registered nurses and must be determined based on the satisfactory performance of:

(a) The statutorily recognized duties and responsibilities of the registered nurses, as set forth in chapter 464, Florida Statutes, and rules adopted thereunder; and

(b) The standards required under sections 4 and 5 of this act, which are specific to each hospital unit.

(7) “Declared state of emergency” means an officially designated state of emergency that 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 that results from a labor dispute in the health care industry.
(8) “Direct care registered nurse” means a licensed nurse who has documented clinical competence 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.

(9) “Health care facility” means an acute care hospital; an emergency care, ambulatory, or outpatient surgery facility licensed under chapter 395, Florida Statutes; or a psychiatric facility licensed under chapter 394, Florida Statutes, including a critical access and long-term acute care hospital.

(10) “Hospital unit” or “clinical patient care area” means an intensive care or critical care unit, burn unit, labor and delivery room, antepartum and postpartum unit, newborn nursery, postanesthesia service area, emergency department, operating room, pediatric unit, step-down or intermediate care unit, specialty care unit, telemetry unit, general medical or surgical care unit, psychiatric unit, rehabilitation unit, or skilled nursing facility unit, and as further defined in this subsection.

(a) “Critical care unit” or “intensive care unit” means a nursing unit of an acute care hospital which is established to safeguard and protect patients whose severity of medical conditions require continuous monitoring and complex interventions by direct care registered nurses and whose restorative measures and level of nursing intensity requires intensive care through direct observation by the direct care registered nurse, 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 an intensive care unit, a
burn center, a coronary care unit, or an acute respiratory unit.

(b) “Step-down unit” or “intermediate intensive care unit”
means a unit established to safeguard and protect patients whose
severity of illness, including all co-occurring morbidities,
restorative measures, and level of nursing intensity, requires
intermediate intensive care through direct observation by the
direct care registered nurse, monitoring, multiple assessments,
specialized interventions, evaluations, and education or
teaching of 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.
“Artificial life support” means a system that uses medical
technology to aid, support, or replace a vital function of the
body that has been seriously damaged. “Technical support” means
the use of specialized equipment by direct care registered
nurses in providing for invasive monitoring, telemetry, and
mechanical ventilation for the immediate amelioration or
remediation of severe pathology for those patients requiring
less care than intensive care, but more than that which is
required from medical or surgical care.

(c) “Medical or surgical unit” means a unit established to
safeguard and protect patients whose severity of illness,
including all co-occurring morbidities, restorative measures,
and level of nursing intensity requires continuous care through
direct observation by the direct care registered nurse, monitoring, multiple assessments, specialized interventions, evaluations, and education or teaching of 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, post-surgical care, or both general medical and post-surgical care; and mixed patient populations of diverse diagnoses and diverse age groups, but excluding pediatric patients.

(d) “Telemetry unit” means a unit that is established to safeguard and protect patients whose severity of illness, including all co-occurring morbidities, restorative measures, and level of nursing intensity, requires intermediate intensive care through direct observation by the direct care registered nurse, monitoring, multiple assessments, specialized interventions, evaluations, and education or teaching of 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.

(e) “Specialty care unit” means a unit that is established to safeguard and protect patients whose severity of illness, including all co-occurring morbidities, restorative measures, and level of nursing intensity, requires continuous care through direct observation by the direct care registered nurse, monitoring, multiple assessments, specialized interventions, evaluations, and education or teaching of the patient’s family.
or other representatives by a competent and experienced direct
care registered nurse. The term includes 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 process
than that which is required on medical or surgical units, and
includes those units not otherwise covered by the definitions in
this section.

(f) “Rehabilitation unit” means a functional clinical unit
for the provision of those 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 the patient’s
physical, intellectual, and emotional or psychological
capabilities, and in accord with planned goals and objectives.

(g) “Skilled nursing facility” means a functional clinical
unit for the provision of skilled nursing care and supportive
care to patients whose primary need is for the availability of
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 need not be limited to, medical, nursing,
dietary, and pharmaceutical services and activity programs.

(11) “Licensed nurse” means a registered nurse or a
licensed practical nurse, as defined in s. 464.003, Florida
Statutes, 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, Florida Statutes.

(12) “Long-term acute care hospital” means any hospital or
health care facility that specializes in providing long-term
acute care to medically complex patients. The term includes freestanding and hospital-within-hospital models of long-term acute care facilities.

(13) “Overtime” means the hours worked in excess of:
   (a) An agreed-upon, predetermined, regularly scheduled shift;
   (b) Twelve hours in a 24-hour period; or
   (c) Eighty hours in a consecutive 14-day period.

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

(15) “Professional judgment” means the intellectual, educated, informed, and experienced process that the 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.

(16) “Skill mix” means the differences in licensing, specialty, and experience among direct care registered nurses.

(17) “Staffing level” means the actual numerical registered nurse-to-patient ratio within a nursing department, unit, or clinical patient care area.

Section 4. Minimum direct care registered nurse-to-patient staffing requirements.—

(1) Each health care facility shall implement a staffing plan that provides for minimum staffing by direct care
registered nurses in accordance with the general requirements set forth in this section and the clinical unit direct care registered nurse-to-patient ratios specified in subsection (2).

Staffing for patient care tasks not requiring a direct care registered nurse is not included within these ratios and shall be determined pursuant to an acuity-based patient classification system defined by agency rule.

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

(b) Direct care registered nurse-to-patient ratios represent the maximum number of patients that shall be assigned to one direct care registered nurse at all times.

(c) “Assigned” means the direct care registered nurse has responsibility for the provision of care to a particular patient within her or his validated competency.

(d) 1. A health care facility may not average the number of patients and the total number of direct care registered nurses assigned to patients in a clinical unit during any one shift or over any period of time for purposes of meeting the requirements under this section.

2. A health care facility may not impose mandatory overtime
requirements in order to meet the hospital unit direct care registered nurse-to-patient ratios required under this section.

3. A health care facility shall ensure that only a direct care registered nurse may relieve another direct care registered nurse during breaks, meals, and routine absences from a clinical unit.

4. A health care facility may not impose layoffs of licensed practical nurses, licensed psychiatric technicians, certified nursing assistants, or other ancillary support staff in order to meet the clinical unit direct care registered nurse-to-patient ratios required in this section.

(e) Only direct care registered nurses shall be assigned to intensive care newborn nursery service units, which specifically require one direct care registered nurse to two or fewer infants at all times.

(f) Only direct care registered nurses shall be assigned to triage patients and only direct care registered nurses shall be assigned to critical trauma patients.

1. The direct care registered nurse-to-patient ratio for critical care patients in the emergency department shall be 1 to 2 or fewer at all times.

2. No fewer than two direct care registered nurses must be physically present in the emergency department when a patient is present.

3. Triage, radio, specialty, or flight-registered nurses do not count in the calculation of direct care registered nurse-to-patient ratios.

4. Triage-registered nurses may not be assigned the responsibility of the base radio.
(g) In the labor and delivery unit, the direct care registered nurse-to-patient ratio shall be 1 to 1 for active labor patients and patients having medical or obstetrical complications, during the initiation of epidural anesthesia, and during circulation for cesarean delivery.

1. The direct care registered nurse-to-patient ratio for antepartum patients who are not in active labor shall be 1 to 3 or fewer at all times.

2. In the event of cesarean delivery, the total number of mothers plus infants assigned to a single direct care registered nurse may not exceed four.

3. In the event of multiple births, the total number of mothers plus infants assigned to a single direct care registered nurse may not exceed six.

4. For postpartum areas in which the direct care registered nurse’s assignment consists of mothers only, the direct care registered nurse-to-patient ratio shall be 1 to 4 or fewer at all times.

5. The direct care registered nurse-to-patient ratio for postpartum women or postsurgical gynecological patients only shall be 1 to 4 or fewer at all times.

6. The direct care registered nurse-to-patient ratio for the well-baby nursery shall be 1 to 5 at all times.

7. The direct care registered nurse-to-patient ratio for unstable newborns and those in the resuscitation period as assessed by the direct care registered nurse shall be 1 to 1 at all times.

8. The direct care registered nurse-to-patient ratio for recently born infants shall be 1 to 4 or fewer at all times.
(h) The direct care registered nurse-to-patient ratio for patients receiving conscious sedation shall be 1 to 1 or fewer at all times.

(2) A health care facility’s staffing plan shall 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 the following number of patients in that unit:

(a) One patient in trauma emergency units.

(b) One patient in operating room units. The operating room shall 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.

(c) Two patients in critical care units, 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, burn units, and immediate postpartum patients, so that the direct-care registered nurse-to-patient ratio is 1 to 2 at all times.

(d) Three patients in the emergency room units, step-down or intermediate intensive care units, pediatrics units, telemetry units, and combined labor, delivery, and postpartum units, so that the direct care registered nurse-to-patient ratios is 1 to 3 or fewer at all times.

(e) Four patients in medical-surgical units, antepartum units, intermediate care nursery units, psychiatric units, and presurgical and other specialty care units, so that the direct care registered nurse-to-patient ratio is 1 to 4 or fewer at all
times.

(f) Five patients in rehabilitation units and skilled nursing units, so that the direct care registered nurse-to-patient ratio is 1 to 5 or fewer at all times.

(g) Six patients in well-baby nursery units, so that the direct care registered nurse-to-patient ratio is 1 to 6 or fewer at all times.

(h) Three couplets in postpartum units, so that the direct care registered nurse-to-patient ratio is 1 to 3 couplets or fewer at all times.

(3)(a) Identifying a unit or clinical patient care area by a name or term other than those defined in section 3 of this act does not affect the requirement to provide for staff at the direct care registered nurse-to-patient ratios identified for the level of intensity or type of care described in subsections (1) and (2).

(b) Patients shall be cared for only on units or clinical patient care areas where the level of intensity, type of care, and direct care registered nurse-to-patients ratios meet the individual requirements and needs of each patient. The use of patient acuity-adjustable units is strictly prohibited.

(c) Video cameras or monitors or any form of electronic visualization of a patient may not be substituted for the direct observation required for patient assessment by the direct care registered nurse and for patient protection required by an attendant.

(4) The requirements established under this section do not apply during a declared state of emergency if a health care facility is requested or expected to provide an exceptional
(5) (a) A written staffing plan shall be developed by the chief nursing officer or a designee, based on individual patient care needs determined by the patient classification system. The staffing plan shall be developed and implemented for each patient care unit and must specify individual patient care requirements and the staffing levels for direct care registered nurses and other licensed and unlicensed personnel. In no case shall the staffing level for direct care registered nurses on any shifts fall below the requirements of subsections (1) and (2).

(b) In addition to the direct care registered nurse-ratio requirements of subsections (1) and (2), 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 made by the assigned direct care registered nurse of patient nursing care requirements and which provides for shift-by-shift staffing based on those requirements. The ratios specified in subsections (1) and (2) constitute the minimum number of registered nurses who shall be assigned to provide direct patient care.

(c) In developing the staffing plan, a health care facility shall provide for direct care registered nurse-to-patient ratios above the minimum ratios required under subsections (1) and (2) based upon consideration of the following factors:

1. The number of patients and acuity level of patients as determined by the application of an acuity system on a shift-by-shift level of emergency or other medical services.
2. The anticipated admissions, discharges, and transfers of patients during each shift which affect direct patient care.

3. Specialized experience required of direct care registered nurses on a particular unit.

4. Staffing levels and services provided by other health care personnel in meeting direct patient care needs that do not require care by a direct care registered nurse.

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

6. The level of familiarity with hospital practices, policies, and procedures by temporary agency direct care registered nurses who are assigned during a shift.

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

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

(e) A health care facility shall annually evaluate:

1. 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.

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

(f) A health care facility shall update its staffing plan
and acuity system to the extent appropriate based on the annual evaluation. If the review 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 determination.

(g) 1. Any acuity-based patient classification system adopted by a health care facility under this section shall 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.

2. The documentation required by this section shall be submitted in its entirety to the Agency of Health Care Administration as a mandatory condition of licensure, with a certification by the chief nurse officer for the health care facility that it completely and accurately reflects implementation of a valid acuity-based patient classification system used to determine nursing service staffing by the facility for every shift on every clinical unit in which patients reside and receive care. The certification shall be executed by the chief nurse officer under penalty of perjury and must contain an expressed acknowledgement that any false statement in the certification constitutes fraud and is subject to criminal and civil prosecution and penalties.
3. Such documentation shall be available for public inspection in its entirety in accordance with procedures established by appropriate administrative rules adopted by the Agency for Health Care Administration, consistent with the purposes of this act.

(h)1. A staffing plan of a health care facility shall be developed and evaluated by a committee. At least one-half of the members of the committee shall be unit-specific competent direct care registered nurses who provide direct patient care.

2. The members of the committee shall be appointed by the chief nurse officer, except at a facility where direct care registered nurses are represented for collective bargaining purposes, all direct care registered nurses on the committee shall be appointed by the authorized collective bargaining agent. In case of a dispute, the direct care registered nurse assessment shall prevail. This act does not authorize conduct that is prohibited under the National Labor Relations Act or under the Federal Labor Relations Act.

(i)1. By July 1, 2013, the Agency for Health Care Administration shall develop uniform statewide standards for a standardized acuity tool for use in health care facilities which provides a method for establishing nurse staffing requirements that exceed the hospital unit or clinical patient care area direct care registered nurse-to-patient ratios required under subsections (1) and (2).

2. Proposed standards shall be developed by a committee composed of not more than 20 individuals, at least 11 of whom must be currently licensed registered nurses who are employed as direct care registered nurses, and the remaining 9 must include
a sufficient number of technical or scientific experts in the specialized fields involved in the design and development of a patient classification system that meets the requirements of this act.

3. A person who has any employment, commercial, proprietary, financial, or other personal interest in the development, marketing, or utilization of any 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 individual 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.

4. 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 report shall be disclosed to the public upon notice of public hearings and a public comment period for proposed adoption of uniform standards for a patient classification system by the agency.

(j) Each hospital shall adopt and implement the patient classification system and provide staffing based on such tool. Any additional direct care registered nursing staffing levels
that exceed the direct care registered nurse-to-patient ratios described in subsections (1) and (2) shall be assigned in a manner determined by such statewide tool.

(k) A health care facility shall submit to the agency its staffing plan and annual update required under this section.

(6)(a) In each unit, a health care facility shall post a uniform notice in a form specified by the agency by rule which:

1. Explains the requirements imposed under this section;
2. Includes actual direct care registered nurse-to-patient ratios during each shift;
3. Is visible, conspicuous, and accessible to staff, patients, and the public;
4. Identifies staffing requirements as determined by the patient classification system for each unit, documented and posted on the unit for public view on a day-to-day, shift-by-shift basis;
5. Reports the actual number of staff and the staff mix, documented and posted on the unit for public view on a day-to-day, shift-by-shift basis; and
6. Reports the variance between the required and actual staffing patterns, documented and posted on the unit for public view on a day-to-day, shift-by-shift basis.

(b)1. Each acute care facility shall maintain accurate records of actual direct care registered nurse-to-patient ratios in each unit for each shift for at least 2 years. Such records shall include:

a. The number of patients in each unit;
b. 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 each unit in each shift. The hospital shall retain the record for 2 years; and

c. A copy of each posted notice.

2. Each hospital shall make its records maintained under the requirements of this section available to:

a. The agency;

b. Registered nurses and their collective bargaining representatives, if any; and

c. The public under rules adopted by the agency.

(c) The agency shall conduct periodic audits to ensure:

1. Implementation of the staffing plan in accordance with this section; and

2. Accuracy in records maintained under this section.

(7) Acute 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 hospital must demonstrate that immediate and diligent efforts were made to maintain required staffing levels.

(8) The following activities are prohibited:

(a) A health care facility may not directly assign any unlicensed personnel to perform registered-nurse functions in lieu of care being delivered by a licensed or registered nurse, and may not assign unlicensed personnel to perform registered-nurse functions under the clinical supervision of a direct care registered nurse.

(b) Unlicensed personnel may not perform tasks that require the clinical assessment, judgment, and skill of a licensed
registered nurse, including, without limitation, nursing activities that require nursing assessment and judgment during implementation; physical, psychological, or social assessments that require nursing judgment, intervention, referral, or followup; formulation of a plan of nursing care and an 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, educating patients and their families concerning the patient’s health care problems, including postdischarge care, with the exception that only phlebotomists, emergency room technicians, and medical technicians, under the general supervision of the clinical laboratory director or designee or a physician, may perform venipunctures in accordance with written hospital policies and procedures.

Section 5. Professional practice standards for direct care registered nurses working in a health care facility.—

(1) A direct care registered nurse, currently licensed to practice as a 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:

(a) Continuous and ongoing assessments of the patient’s condition based upon the independent professional judgment of the direct care registered nurse.

(b) The planning, clinical supervision, implementation, and evaluation of the nursing care provided to each patient.
(c) The assessment, planning, implementation, and evaluation of patient education, including ongoing discharge teaching of each patient.

(d) The planning and delivery of patient care, which shall reflect all elements of the nursing process and shall 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.

(e) The nursing plan for the patient’s 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.

(f) 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 shall modify the plan as needed.

(g) Information related to the patient’s initial assessment and reassessments, 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.

(2)(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 team. Assessment requires data collection by the direct care registered nurse and the analysis, synthesis, and evaluation of such data.

(b) Only direct care registered nurses are authorized to perform patient assessments. A licensed practical nurse or licensed psychiatric technician may assist direct care registered nurses in data collection.

(3)(a) The nursing care needs of individual patients shall be determined by a direct care registered nurse through the process of ongoing patient assessments, nursing diagnosis, formulation, and adjustment of nursing care plans.

(b) 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 subsections (1) and (2) of section 4 of this act.

(4)(a) 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 interests of the patient. The exercise of such independent judgment, unencumbered by the commercial or revenue-generation priorities of a hospital or employing entity of a direct care registered nurse, is essential to safe nursing care.

(b) The exercise of independent judgment by a direct care registered nurse in the performance of 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 hospital employer.

(5)(a) In addition to the limitations on assignments of patient care tasks provided in subsection (8) of section 4 of this act, a direct care registered nurse who is responsible for a patient may assign tasks required in the implementation of nursing care for that patient to other licensed nursing staff or to unlicensed staff only if the assigning direct care registered nurse:

1. 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

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

(b) 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 section shall be in the exclusive interests of the patient and may not, for any purpose whatsoever, 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 hospital employer, but constitutes the exercise of professional nursing authority and duty exclusively in the interests of the patient.

(6) A health care facility may not engage in the deployment of 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 clinical judgment in the assessment, planning,
implementation, and evaluation of care, or that limits a direct
registered nurse from acting as a patient advocate in the
exclusive interest of the patient. Technology may not be skill
degrad ing, 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 registered nurse’s right to advocate in the
exclusive interest of the patient.

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

Section 6. Direct care registered nurse’s duty and right of
patient advocacy.—

(1) By virtue of their professional license and ethical
obligations, all direct care registered nurses have a duty and
right to act and provide care in the exclusive interests of the
patients and to act as the patient’s advocate, as circumstances
require, in accordance with this section.

(2) The direct care registered nurse is always responsible
for providing competent, safe, therapeutic, and effective
nursing care to assigned patients.

(a) 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 she or he 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.

(b) If the direct care registered nurse is not clinically 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.

(3) In the course of performing the responsibilities and essential functions described in section 5 of this act and this section, the direct care registered nurse assigned to a patient receives 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, without limitation, the administration of medications and therapeutic agents that are necessary to implement a treatment, disease prevention, or rehabilitative regimen.

(a) The direct care registered nurse shall assess each such order before implementation in order to determine if the order is:

1. In the best interests of the patient;
2. Initiated by a person legally authorized to issue the order; and
3. Issued in accordance with applicable law and rules governing nursing care.

(b) If the direct care registered nurse determines these
criteria have not been satisfied with respect to a particular order, or has some doubt regarding the meaning or conformance of the order with these criteria, she or he shall seek clarification from the initiator of the order, the patient’s physician, or other appropriate medical officer. Clarification must be obtained prior to implementation.

(c) If, upon clarification, the direct care registered nurse determines that the criteria for implementation of an order have not been satisfied, she or he may refuse implementation on the basis that the order is not in the best interests of the patient. Seeking clarification of an order or refusing an order as described in this section constitutes an exercise of the direct care registered nurse’s duty and right of patient advocacy.

(4) A direct care registered nurse has the professional obligation and therefore the right to act as the patient’s advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities that, in the professional judgment of the direct care registered nurse, are against the interests and wishes of the patient; and

Section 7. Free speech; patient protection.—
(1) A direct care registered nurse has the right to act as the patient’s advocate, as circumstances require, by:
(a) Initiating action to improve health care or to change decisions or activities that, in the professional judgment of the nurse, are against the interests and wishes of the patient; and
(b) Giving the patient an opportunity to make informed
decisions about health care before it is provided.

(2) A direct care registered nurse may refuse to accept an
assignment as a nurse in a health care facility if:
(a) The assignment would violate any provision of chapter
464, Florida Statutes, or the rules adopted thereunder;
(b) The assignment would violate sections 3 through 6 of
this act; or
(c) The direct care registered nurse is not prepared by
education, training, or experience to fulfill the assignment
without compromising the safety of any patient or jeopardizing
the license of the registered nurse.

(3) A direct care registered nurse may refuse to perform
any assigned tasks as a nurse in a health care facility if:
(a) The assigned task would violate any provision of
chapter 464, Florida Statutes, or the rules adopted thereunder;
(b) The assigned task is outside the scope of practice of
the direct care registered nurse; or
(c) The direct care registered nurse is not prepared by
education, training, or experience to fulfill the assigned task
without compromising the safety of any patient or jeopardizing
the license of the direct care registered nurse.

(4)(a) A health care facility may not discharge,
discriminate, or retaliate in any manner with respect to any
aspect of employment, including discharge, promotion,
compensation, or terms, conditions, or privileges of employment,
against a direct care registered nurse based on the nurse’s
refusal of a work assignment or assigned task as provided in
this section.
(b) A health care facility may not file a complaint or a report against a direct care registered nurse with the Board of Nursing or the Agency for Health Care Administration because of the nurse’s refusal of a work assignment or assigned task described in this section.

(5) Any direct care registered nurse who has been discharged, discriminated against, or retaliated against in violation of this section or against whom a complaint has been filed in violation of paragraph (4)(b) may bring a cause of action in a state court. A direct care registered nurse who prevails on the cause of action is entitled to one or more of the following:

(a) Reinstatement.
(b) Reimbursement of lost wages, compensation, and benefits.
(c) Attorney fees.
(d) Court costs.
(e) Other damages.

(6) A direct care registered nurse, patient, or other individual may file a complaint with the agency against a health care facility that violates the provisions of this act. For any complaint filed, the agency shall:

(a) Receive and investigate the complaint;
(b) Determine whether a violation of this act as alleged in the complaint has occurred; and
(c) If such a violation has occurred, issue an order that the complaining nurse or individual not suffer any retaliation described in this section.

(7)(a) The agency shall provide for the establishment of a
toll-free telephone hotline to provide information regarding the
requirements of this section and to receive reports of
violations of such section.

(b) A health care facility shall provide each patient
admitted to the facility for inpatient care with the hotline
described in paragraph (a), and shall give notice to each
patient that such hotline may be used to report inadequate
staffing or care.

(8)(a) 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, or has initiated or cooperated in any
investigation or proceeding of any 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.

(b) For purposes of this subsection, an individual shall be
deemed to be acting in good faith if the individual reasonably
believes:

1. The information reported or disclosed is true; and
2. A violation of this act has occurred or may occur.

(9)(a) A health care facility may not:
1. Interfere with, restrain, or deny the exercise, or
attempt to exercise, by any person of any right provided or
protected under this act; or
2. Coerce or intimidate any person regarding the exercise
or attempt to exercise such right.

(b) A health care facility may not discriminate or retaliate against any person for opposing any facility policy, practice, or actions that are alleged to violate, breach, or fail to comply with any provision of this act.

(c) 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, or intimidates, coerces, or induces a direct care registered nurse regarding, engaging in free speech activities or disclosing information as provided under this act.

(d) 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.

(e) A health care facility shall post in an appropriate location in each unit a conspicuous notice in a form specified by the agency which:

1. Explains the rights of nurses, patients, and other individuals under this section;

2. Includes a statement that a nurse, patient, or other individual may file a complaint with the agency against a health care facility that violates the provisions of this act; and

3. Provides instructions on how to file a complaint.

Section 8. Enforcement.—

(1) In addition to any other penalties prescribed by law, the agency may impose civil penalties as follows:
(a) The agency may impose against a health care facility found to be in violation of any provision of this act a civil penalty of not more than $25,000 for each such violation, except that the agency shall impose a civil penalty of more than $25,000 for each violation in the case of a health care facility that the agency determines has a pattern of practice of such violation.

(b) The agency may impose against an individual who is employed by a health care facility and who is found by the agency to have violated a requirement of this act a civil penalty of not more than $20,000 for each such violation.

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

Section 9. This act shall take effect July 1, 2012.