

By Senator Braynon

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1 A bill to be entitled
2 An act relating to delivery of nursing services in
3 health care facilities; providing a short title;
4 creating the "Florida Hospital Patient Protection
5 Act"; creating s. 395.1014, F.S.; providing
6 legislative findings; defining terms; requiring
7 minimum direct care registered nurse staffing levels
8 in a health care facility; requiring that each health
9 care facility implement a staffing plan; prohibiting a
10 health care facility from imposing mandatory overtime
11 and certain other actions; specifying the required
12 ratios of direct care registered nurses to patients
13 for each type of care provided; prohibiting a health
14 care facility from using an acuity adjustable unit to
15 care for a patient; prohibiting a health care facility
16 from using video cameras or monitors as substitutes
17 for the required level of care; providing an exception
18 during a declared state of emergency; requiring that
19 the chief nursing officer of a health care facility,
20 or his or her designee, prepare a written staffing
21 plan that meets the direct care registered nurse
22 staffing levels required by the act; requiring that a
23 health care facility annually evaluate its actual
24 direct care registered nurse staffing levels and
25 update the staffing plan based on the evaluation;
26 requiring that certain documentation be submitted to
27 the Agency for Health Care Administration and be made
28 available for public inspection; requiring that the
29 agency develop uniform standards for use by health
30 care facilities in establishing nurse staffing
31 requirements; providing requirements for the committee
32 members who are appointed to develop the uniform

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33 standards; requiring health care facilities to
34 annually report certain information to the agency and
35 post a notice containing such information in each unit
36 of the facility; prohibiting a health care facility
37 from assigning unlicensed personnel to perform
38 functions or tasks that are performed by a licensed or
39 registered nurse; specifying those actions that
40 constitute professional practice by a direct care
41 registered nurse; requiring that a patient assessment
42 be performed only by a direct care registered nurse;
43 authorizing a direct care registered nurse to assign
44 certain specified activities to other licensed or
45 unlicensed nursing staff; prohibiting a health care
46 facility from deploying technology that limits certain
47 care provided by a direct care registered nurse;
48 providing that it is a duty and right of a direct care
49 registered nurse to act as the patient's advocate;
50 providing certain requirements with respect to such
51 duty; authorizing a direct care registered nurse to
52 refuse an assignment under certain circumstances;
53 authorizing a direct care registered nurse to refuse
54 to perform certain tasks under certain circumstances;
55 prohibiting a health care facility from discharging,
56 discriminating against, or retaliating against a
57 direct care registered nurse based on such refusal;
58 providing that a direct care registered nurse has a
59 right of action against a health care facility that
60 violates certain provisions of the act; requiring that
61 the agency establish a toll-free telephone hotline to

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62 provide information and to receive reports of
63 violations of the act; requiring that certain
64 information be provided to each patient who is
65 admitted to a health care facility; prohibiting a
66 health care facility from interfering with the right
67 of nurses to organize or bargain collectively;
68 authorizing the agency to impose fines for violations
69 of the act; requiring that the agency post on its
70 website information regarding health care facilities
71 that have violated the act; providing an effective
72 date.

73
74 Be It Enacted by the Legislature of the State of Florida:

75
76 Section 1. Short title.—This act may be cited as the
77 “Florida Hospital Patient Protection Act.”

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

80 395.1014 Health care facility patient care standards.—

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

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

86 (b) Health care services are becoming more complex and it
87 is increasingly difficult for patients to access integrated
88 services. Competent, safe, therapeutic, and effective patient
89 care is jeopardized because of staffing changes implemented in
90 response to market-driven managed care. In order to ensure

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91 effective protection of patients in acute care settings, it is
92 essential that qualified direct care registered nurses be
93 accessible and available to meet the individual needs of the
94 patient at all times. Also, in order to ensure the health and
95 welfare of patients and to ensure that hospital nursing care is
96 provided in the exclusive interests of patients, mandatory
97 practice standards and professional practice protections for
98 professional direct care registered nursing staff must be
99 established. Direct care registered nurses have a duty to care
100 for assigned patients and a necessary duty to provide individual
101 and collective patient advocacy in order to satisfy professional
102 obligations.

103 (c) The basic principles of staffing in hospital settings
104 should be based on the care needs of the individual patient, the
105 severity of the patient's condition, the services needed, and
106 the complexity surrounding those services. Unsafe practices by
107 hospital direct care registered nursing staff have resulted in
108 adverse patient outcomes. Mandating the adoption of uniform,
109 minimum, numerical, and specific registered-nurse-to-patient
110 staffing ratios by licensed hospital facilities is necessary for
111 competent, safe, therapeutic, and effective professional nursing
112 care and for the retention and recruitment of qualified direct
113 care registered nurses.

114 (d) Direct care registered nurses must be able to advocate
115 for their patients without fear of retaliation from their
116 employers. Whistle-blower protections that encourage registered
117 nurses and patients to notify governmental and private
118 accreditation entities of suspected unsafe patient conditions,
119 including protection against retaliation for refusing unsafe

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120 patient care assignments, will greatly enhance the health,
121 safety, and welfare of patients.

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

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

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

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

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

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

147 (b) "Ancillary support staff" means the personnel assigned
148 to assist in providing nursing services for the delivery of

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149 competent, safe, therapeutic, and effective patient care,
150 including unit or ward clerks and secretaries, clinical
151 technicians, respiratory therapists, and radiology, laboratory,
152 housekeeping, and dietary personnel.

153 (c) "Clinical supervision" means the assignment and
154 direction of a required patient care task to other licensed
155 nursing staff or to unlicensed staff by a direct care registered
156 nurse in the exclusive interest of the patient.

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

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

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

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

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178 (h) "Hospital unit" or "clinical unit" means a critical
179 care or intensive care unit, labor and delivery room, antepartum
180 and postpartum unit, newborn nursery, postanesthesia unit,
181 emergency department, operating room, pediatric unit, surgical
182 unit, rehabilitation unit, skilled nursing unit, specialty care
183 unit, step-down unit or intermediate intensive care unit,
184 telemetry unit, or psychiatric unit.

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

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

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

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

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

227 6. "Step-down unit" or "intermediate intensive care unit"
228 means a unit established to protect a patient whose severity of
229 illness, including all co-occurring morbidities, restorative
230 measures, and level of nursing intensity, requires intermediate
231 intensive care through direct observation by a direct care
232 registered nurse and monitoring, multiple assessments,
233 specialized interventions, evaluations, and education or
234 teaching of the patient, the patient's family, or other
235 representatives by a competent and experienced direct care

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236 registered nurse. The term includes units established to provide
237 care to patients who have moderate or potentially severe
238 physiologic instability requiring technical support, but not
239 necessarily artificial life support. As used in this
240 subparagraph, the term:

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

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

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

264 8. "Telemetry unit" means a step-down unit or an

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265 intermediate intensive care unit that includes the equipment
266 used to provide for the electronic monitoring, recording,
267 retrieval, and display of cardiac electrical signals.

268 (i) "Licensed nurse" means a registered nurse or a licensed
269 practical nurse, as defined in s. 464.003, who is licensed by
270 the Board of Nursing to engage in the practice of professional
271 nursing or the practice of practical nursing, as defined in s.
272 464.003.

273 (j) "Long-term acute care hospital" means a hospital or
274 health care facility that specializes in providing long-term
275 acute care to patients with medically complex conditions. The
276 term includes a freestanding and hospital-within-hospital model
277 of a long-term acute care facility.

278 (k) "Overtime" means the hours worked in excess of:

279 1. An agreed-upon, predetermined, regularly scheduled
280 shift;

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

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

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

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

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

296 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
297 REQUIREMENTS.—

298 (a) Each health care facility shall implement a staffing
299 plan that provides for a minimum direct care registered nurse
300 staffing level in accordance with the general requirements set
301 forth in this subsection and the directed care registered nurse
302 staffing levels in a clinical unit as specified in paragraph
303 (b). Staffing levels for patient care tasks that do not require
304 a direct care registered nurse are not included within these
305 ratios and shall be determined pursuant to an acuity-based
306 patient classification system defined by agency rule.

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

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

320 3. A health care facility:

321 a. May not average the number of patients and the total
322 number of direct care registered nurses assigned to patients in

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323 a hospital unit or clinical unit during any period of time for
324 purposes of meeting the requirements under this subsection.

325 b. May not impose mandatory overtime in order to meet the
326 minimum direct care registered nurse staffing levels in the
327 hospital unit or clinical unit which are required under this
328 subsection.

329 c. Shall ensure that only a direct care registered nurse
330 may relieve another direct care registered nurse during breaks,
331 meals, and routine absences from a hospital unit or clinical
332 unit.

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

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

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

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

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

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

355 d. Triage registered nurses may not be assigned the
356 responsibility for the base radio.

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

359 a. The direct care registered nurse staffing level must be
360 one nurse to one active labor patient or one patient having
361 medical or obstetrical complications, during the initiation of
362 epidural anesthesia and during circulation for a caesarean
363 section delivery.

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

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

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

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

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

380 g. The direct care registered nurse staffing level for the

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381 well-baby nursery must be one nurse to five or fewer patients at
382 all times.

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

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

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

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

397 1. One patient in a trauma emergency unit;

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

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

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

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

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

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

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

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

435 2. Patients shall be cared for only in hospital units or
436 clinical units in which the level of intensity, type of care,
437 and direct care registered nurse staffing levels meet the
438 individual requirements and needs of each patient. A health care

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439 facility may not use an acuity adjustable unit to care for a
440 patient.

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

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

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

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

459 2. In addition to the requirements of direct care
460 registered nurse staffing levels in paragraphs (a) and (b), each
461 health care facility shall assign additional nursing staff, such
462 as licensed practical nurses, licensed psychiatric technicians,
463 and certified nursing assistants, through the implementation of
464 a valid patient classification system for determining nursing
465 care needs of individual patients which reflects the assessment
466 of patient nursing care requirements made by the assigned direct
467 care registered nurse and which provides for shift-by-shift

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468 staffing based on those requirements. The direct care registered
469 nurse staffing levels specified in paragraphs (a) and (b)
470 constitute the minimum number of registered nurses who shall be
471 assigned to provide direct patient care.

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

476 a. The number of patients and acuity level of patients as
477 determined by the application of an acuity system on a shift-by-
478 shift basis.

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

481 c. The specialized experience required of direct care
482 registered nurses on a particular hospital unit or clinical
483 unit.

484 d. Staffing levels of other health care personnel who
485 provide services for direct patient care needs which normally do
486 not require care by a direct care registered nurse.

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

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

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

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

496 5. A health care facility shall annually evaluate:

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

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

506 6. A health care facility shall annually update its
507 staffing plan and acuity system to the extent appropriate based
508 on the annual evaluation conducted under subparagraph 5. If the
509 evaluation reveals that adjustments are necessary in order to
510 ensure accuracy in measuring patient care needs, such
511 adjustments must be implemented within 30 days after that
512 determination.

513 7. Any acuity-based patient classification system adopted
514 by a health care facility under this subsection must be
515 transparent in all respects, including disclosure of detailed
516 documentation of the methodology used to predict nursing
517 staffing; an identification of each factor, assumption, and
518 value used in applying such methodology; an explanation of the
519 scientific and empirical basis for each such assumption and
520 value; and certification by a knowledgeable and authorized
521 representative of the health care facility that the disclosures
522 regarding methods used for testing and validating the accuracy
523 and reliability of the system are true and complete.

524 a. The documentation required by this subparagraph shall be
525 submitted in its entirety to the agency as a mandatory condition

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526 of licensure, with a certification by the chief nursing officer
527 for the health care facility that the documentation completely
528 and accurately reflects implementation of a valid acuity-based
529 patient classification system used to determine nursing service
530 staffing by the facility for each shift on each hospital unit or
531 clinical unit in which patients receive care. The chief nursing
532 officer shall execute the certification under penalty of
533 perjury, and the certification must contain an expressed
534 acknowledgment that any false statement constitutes fraud and is
535 subject to criminal and civil prosecution and penalties.

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

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

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

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

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

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

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

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

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

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

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

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

607 a. Explains the requirements imposed under this subsection;

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

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

612 d. Identifies staffing requirements as determined by the

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613 patient classification system for each hospital unit or clinical
614 unit, documented and posted in the unit for public view on a
615 day-to-day, shift-by-shift basis;

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

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

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

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

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

634 (III) A copy of each posted notice.

635 b. Each health care facility shall make its records
636 maintained under paragraph (e) available to the agency; to
637 registered nurses and their collective bargaining
638 representatives, if any; and to the public under rules adopted
639 by the agency.

640 3. The agency shall conduct periodic audits to ensure
641 implementation of the staffing plan in accordance with this

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642 subsection and to ensure the accuracy of records maintained
643 under paragraph (e).

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

650 (h) The following activities are prohibited:

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

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

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

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

664 c. Formulation of a plan of nursing care and evaluation of
665 a patient's response to the care provided, including
666 administration of medication; venipuncture or intravenous
667 therapy; parenteral or tube feedings; invasive procedures,
668 including inserting nasogastric tubes, inserting catheters, or
669 tracheal suctioning; and educating patients and their families
670 concerning the patient's health care problems, including

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671 postdischarge care. However, a phlebotomist, an emergency room
672 technician, or a medical technician may, under the general
673 supervision of the clinical laboratory director, or his or her
674 designee, or a physician, perform venipunctures in accordance
675 with written hospital policies and procedures.

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

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

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

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

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

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

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

699 6. An evaluation of the effectiveness of the care plan

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700 through assessments based on direct observation of the patient's
701 physical condition and behavior, signs and symptoms of illness,
702 and reactions to treatment and through communication with the
703 patient and the health care team members, and modification of
704 the plan as needed.

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

711 (b)1. A patient assessment requires direct observation of
712 the patient's signs and symptoms of illness, reaction to
713 treatment, behavior and physical condition, and interpretation
714 of information obtained from the patient and others, including
715 other caregivers on the health care team. A patient assessment
716 requires data collection by a direct care registered nurse and
717 the analysis, synthesis, and evaluation of such data.

718 2. Only a direct care registered nurse may perform a
719 patient assessment. A licensed practical nurse or licensed
720 psychiatric technician may assist a direct care registered nurse
721 in data collection.

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

726 2. The prediction of individual patient nursing care needs
727 for prospective assignment of direct care registered nurses
728 shall be based on individual patient assessments by the direct

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729 care registered nurse assigned to each patient and in accordance
730 with a documented patient classification system as provided in
731 subsection (3).

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

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

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

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

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

756 (e)1. In addition to the prohibition on assignments of
757 patient care tasks provided in paragraph (3) (h), a direct care

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758 registered nurse may assign tasks required to implement nursing
759 care for a patient to other licensed nursing staff or to
760 unlicensed staff only if the assigning direct care registered
761 nurse:

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

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

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

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

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787 provision of individualized patient care, override the direct
788 care registered nurse's independent professional judgment, or
789 interfere with the direct care registered nurse's right to
790 advocate in the exclusive interest of the patient.

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

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

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

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

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

811 2. If the direct care registered nurse is not competent to
812 perform the care required for a patient assigned for nursing
813 care or if the assignment would expose the patient to risk of
814 harm, the direct care registered nurse may not accept the
815 patient care assignment. Such refusal to accept a patient care

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816 assignment is an exercise of the direct care registered nurse's
817 duty and right of patient advocacy.

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

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

822 2. The assignment would violate subsection (3), subsection
823 (4), or this subsection; or

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

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

830 1. The assigned task would violate a provision of chapter
831 464 or the rules adopted under that chapter;

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

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

838 (e) In the course of performing the responsibilities and
839 essential functions described in subsection (4), the direct care
840 registered nurse assigned to a patient shall receive orders
841 initiated by physicians and other legally authorized health care
842 professionals within their scope of licensure regarding patient
843 care services to be provided to the patient, including, but not
844 limited to, the administration of medications and therapeutic

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845 agents that are necessary to implement a treatment, disease
846 prevention, or rehabilitative regimen.

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

849 a. In the best interest of the patient;

850 b. Initiated by a person legally authorized to issue the
851 order; or

852 c. Issued in accordance with applicable law and rules
853 governing nursing care.

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

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

869 (f) A direct care registered nurse shall, as circumstances
870 require, initiate action to improve the patient's health care or
871 to change decisions or activities that, in the professional
872 judgment of the direct care registered nurse, are against the
873 interest or wishes of the patient or shall give the patient the

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874 opportunity to make informed decisions about the health care
875 before it is provided.

876 (6) FREE SPEECH; PATIENT PROTECTION.—

877 (a) A health care facility may not:

878 1. Discharge, discriminate against, or retaliate against in
879 any manner with respect to any aspect of employment, including
880 discharge, promotion, compensation, or terms, conditions, or
881 privileges of employment, a direct care registered nurse based
882 on the nurse's refusal of a work assignment pursuant to
883 paragraph (5) (c) or an assigned task pursuant to paragraph
884 (5) (d).

885 2. File a complaint or a report against a direct care
886 registered nurse with the Board of Nursing or the agency because
887 of the nurse's refusal of a work assignment pursuant to
888 paragraph (5) (c) or an assigned task pursuant to paragraph
889 (5) (d).

890 (b) A direct care registered nurse who has been discharged,
891 discriminated against, or retaliated against in violation of
892 this section or against whom a complaint or a report has been
893 filed in violation of subparagraph (a)2. may bring a cause of
894 action in a state court. A direct care registered nurse who
895 prevails in the cause of action is entitled to one or more of
896 the following:

897 1. Reinstatement.

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

899 3. Attorney fees.

900 4. Court costs.

901 5. Other damages.

902 (c) A direct care registered nurse, patient, or other

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903 individual may file a complaint with the agency against a health
904 care facility that violates this section. For any complaint
905 filed, the agency shall:

906 1. Receive and investigate the complaint;

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

909 3. If such a violation has occurred, issue an order that
910 the complaining nurse, patient, or other individual not suffer
911 any retaliation described paragraph (a).

912 (d)1. The agency shall provide for the establishment of a
913 toll-free telephone hotline to provide information regarding the
914 requirements of this subsection and to receive reports of
915 violations of this subsection.

916 2. A health care facility shall provide each patient
917 admitted to the facility for inpatient care with the toll-free
918 telephone hotline described in subparagraph 1. and shall give
919 notice to each patient that the hotline may be used to report
920 inadequate staffing or care.

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

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932 2. For purposes of this paragraph, an individual is deemed
933 to be acting in good faith if the individual reasonably
934 believes:

935 a. The information reported or disclosed is true; and

936 b. A violation of this section has occurred or may occur.

937 (f)1. A health care facility may not:

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

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

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

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

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

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

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- 961 a. Explains the rights of nurses, patients, and other
962 individuals under this subsection;
- 963 b. Includes a statement that a nurse, patient, or other
964 individual may file a complaint with the agency against a health
965 care facility that violates this subsection; and
- 966 c. Provides instructions on how to file a complaint.
- 967 (7) ENFORCEMENT.-
- 968 (a) In addition to any other penalties prescribed by law,
969 the agency may impose civil penalties as follows:
- 970 1. Against a health care facility found to have violated a
971 provision of this section, a civil penalty of up to \$25,000 for
972 each violation, except that the agency shall impose a civil
973 penalty of at least \$25,000 for each violation if the agency
974 determines that the health care facility exhibits a pattern of
975 such violations.
- 976 2. Against an individual who is employed by a health care
977 facility and who is found to have violated a provision of this
978 section, a civil penalty of up to \$20,000 for each violation.
- 979 (b) The agency shall post on its website the names of
980 health care facilities against which civil penalties have been
981 imposed under this subsection and such additional information as
982 the agency deems necessary.
- 983 Section 3. This act shall take effect July 1, 2016.