

By Senator Campbell

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

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30 requirements; providing requirements for the committee
31 members who are appointed to develop the uniform
32 standards; requiring health care facilities to
33 annually report certain information to the agency and
34 post a notice containing such information in each unit
35 of the facility; prohibiting a health care facility
36 from assigning unlicensed personnel to perform
37 functions or tasks that are performed by a licensed or
38 registered nurse; specifying those actions that
39 constitute professional practice by a direct care
40 registered nurse; requiring that a patient assessment
41 be performed only by a direct care registered nurse;
42 authorizing a direct care registered nurse to assign
43 certain specified activities to other licensed or
44 unlicensed nursing staff; prohibiting a health care
45 facility from deploying technology that limits certain
46 care provided by a direct care registered nurse;
47 providing that it is a duty and right of a direct care
48 registered nurse to act as the patient's advocate;
49 providing certain requirements with respect to such
50 duty; authorizing a direct care registered nurse to
51 refuse to perform certain activities if he or she
52 determines that it is not in the best interest of the
53 patient; authorizing a direct care registered nurse to
54 refuse an assignment under certain circumstances;
55 prohibiting a health care facility from discharging,
56 discriminating against, or retaliating against a nurse
57 based on such refusal; providing that a direct care
58 registered nurse has a right of action against a

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

72
73 Be It Enacted by the Legislature of the State of Florida:

74
75 Section 1. Short title.—This act may be cited as the
76 “Florida Hospital Patient Protection Act.”

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

79 395.1014 Health care facility patient care standards.—

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

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

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

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

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

113 (d) Direct care registered nurses must be able to advocate
114 for their patients without fear of retaliation from their
115 employers. Whistle-blower protections that encourage registered
116 nurses and patients to notify governmental and private

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117 accreditation entities of suspected unsafe patient conditions,
118 including protection against retaliation for refusing unsafe
119 patient care assignments, will greatly enhance the health,
120 safety, and welfare of patients.

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

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

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

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

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

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

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

152 (c) "Clinical supervision" means the assignment and
153 direction of a patient care task required in the implementation
154 of nursing care for a patient to other licensed nursing staff or
155 to unlicensed staff by a direct care registered nurse in the
156 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) "Unit" means an acute care hospital; an emergency care,

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175 ambulatory, or outpatient surgery facility licensed under this
176 chapter; or a psychiatric facility licensed under chapter 394.

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

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

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

199 3. "Rehabilitation unit" means a functional clinical unit
200 established to provide rehabilitation services that restore an
201 ill or injured patient to the highest level of self-sufficiency
202 or gainful employment of which he or she is capable in the
203 shortest possible time, compatible with his or her physical,

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204 intellectual, and emotional or psychological capabilities, and
205 in accordance with planned goals and objectives.

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

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

227 6. "Step-down unit" or "intermediate intensive care unit"
228 means a unit established to safeguard and protect a patient
229 whose severity of illness, including all co-occurring
230 morbidities, restorative measures, and level of nursing
231 intensity, requires intermediate intensive care through direct
232 observation by a direct care registered nurse and monitoring,

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233 multiple assessments, specialized interventions, evaluations,
234 and education or teaching of the patient, the patient's family,
235 or other representatives by a competent and experienced direct
236 care registered nurse. The term includes units established to
237 provide care to patients who have moderate or potentially severe
238 physiological 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

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262 populations of patients of diverse diagnoses and diverse age
263 groups, but excluding pediatric patients.

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

276 (i) "Licensed nurse" means a registered nurse or a licensed
277 practical nurse, as defined in s. 464.003, who is licensed by
278 the Board of Nursing to engage in the practice of professional
279 nursing or the practice of practical nursing, as defined in s.
280 464.003.

281 (j) "Long-term acute care hospital" means a hospital or
282 health care facility that specializes in providing long-term
283 acute care to medically complex patients. The term includes a
284 freestanding and hospital-within-hospital model of a long-term
285 acute care facility.

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

- 287 1. An agreed-upon, predetermined, regularly scheduled
288 shift;
289 2. Twelve hours in a 24-hour period; or
290 3. Eighty hours in a 14-day period.

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

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

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

304 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL
305 REQUIREMENTS.—

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

315 1. A health care facility may not assign a direct care
316 registered nurse to a clinical unit unless the health care
317 facility and the direct care registered nurse determine that the
318 nurse has demonstrated and validated current competence in
319 providing care in that clinical unit and has also received

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320 orientation in that area which is sufficient to provide
321 competent, safe, therapeutic, and effective care to a patient in
322 that area. The policies and procedures of the health care
323 facility must contain the criteria for making this
324 determination.

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

328 3. A health care facility:

329 a. May not average the number of patients and the total
330 number of direct care registered nurses assigned to patients in
331 a hospital unit or clinical unit during any period of time for
332 purposes of meeting the requirements under this subsection.

333 b. May not impose mandatory overtime in order to meet the
334 minimum direct care registered nurse staffing levels in the
335 hospital unit or clinical unit which are required under this
336 subsection.

337 c. Shall ensure that only a direct care registered nurse
338 may relieve another direct care registered nurse during breaks,
339 meals, and routine absences from a hospital unit or clinical
340 unit.

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

346 4. Only a direct care registered nurse may be assigned to
347 an intensive care newborn nursery service unit, which
348 specifically requires a direct care registered nurse staffing

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349 level of one nurse to two or fewer infants at all times.

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

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

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

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

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

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

367 a. The direct care registered nurse staffing level must be
368 one nurse to one active labor patient, or one patient having
369 medical or obstetrical complications, during the initiation of
370 epidural anesthesia and during circulation for a caesarean
371 section delivery.

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

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

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

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

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

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

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

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

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

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

- 405 1. One patient in a trauma emergency unit;
406 2. One patient in an operating room unit. The operating

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407 room must have at least one direct care registered nurse
408 assigned to the duties of the circulating registered nurse and a
409 minimum of one additional person as a scrub assistant for each
410 patient-occupied operating room;

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

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

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

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

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

434 8. Three mother-plus-infant couplets in a postpartum unit
435 so that the direct care registered nurse staffing level is one

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436 nurse to three or fewer mother-plus-infant couplets at all
437 times.

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

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

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

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

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

460 1. The staffing plan must be in writing and, based on
461 individual patient care needs determined by the patient
462 classification system, must specify individual patient care
463 requirements and the staffing levels for direct care registered
464 nurses and other licensed and unlicensed personnel. The direct

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465 care registered nurse staffing level on any shift may not fall
466 below the requirements in paragraphs (a) and (b) at any time.

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

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

484 a. The number of patients and acuity level of patients as
485 determined by the application of an acuity system on a shift-by-
486 shift basis.

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

489 c. The specialized experience required of direct care
490 registered nurses on a particular hospital unit or clinical
491 unit.

492 d. Staffing levels of other health care personnel who
493 provide services for direct patient care needs that normally do

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494 not require care by a direct care registered nurse.

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

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

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

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

504 5. A health care facility shall annually evaluate:

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

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

514 6. A health care facility shall annually update its
515 staffing plan and acuity system to the extent appropriate based
516 on the annual evaluation conducted under subparagraph 5. If the
517 evaluation reveals that adjustments are necessary in order to
518 ensure accuracy in measuring patient care needs, such
519 adjustments must be implemented within 30 days after that
520 determination.

521 7. Any acuity-based patient classification system adopted
522 by a health care facility under this subsection must be

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523 transparent in all respects, including disclosure of detailed
524 documentation of the methodology used to predict nursing
525 staffing; an identification of each factor, assumption, and
526 value used in applying such methodology; an explanation of the
527 scientific and empirical basis for each such assumption and
528 value; and certification by a knowledgeable and authorized
529 representative of the health care facility that the disclosures
530 regarding methods used for testing and validating the accuracy
531 and reliability of the system are true and complete.

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

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

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

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

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

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

563 9. By July 1, 2018, the agency shall approve uniform
564 statewide standards for a standardized acuity tool for use in
565 health care facilities. The standardized acuity tool shall
566 provide a method for establishing nurse staffing requirements
567 which exceed the required direct care registered nurse staffing
568 levels in the hospital units or clinical units in paragraphs (a)
569 and (b).

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

579 b. A person who has any employment or any commercial,
580 proprietary, financial, or other personal interest in the

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581 development, marketing, or use of a private patient
582 classification system product or related methodology,
583 technology, or component system is not eligible to serve on the
584 development committee. A candidate for appointment to the
585 development committee may not be confirmed as a member until the
586 candidate files a disclosure-of-interest statement with the
587 agency, along with a signed certification of full disclosure and
588 complete accuracy under oath, which provides all necessary
589 information as determined by the agency to demonstrate the
590 absence of actual or potential conflict of interest. All such
591 filings are subject to public inspection.

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

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

609 11. A health care facility shall submit to the agency its

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610 annually updated staffing plan and acuity system as required
611 under this paragraph.

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

615 a. Explains the requirements imposed under this subsection;

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

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

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

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

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

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

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

637 (II) The identity and duty hours of each direct care
638 registered nurse, licensed practical nurse, licensed psychiatric

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639 technician, and certified nursing assistant assigned to each
640 patient in the hospital unit or clinical unit for each shift;
641 and

642 (III) A copy of each posted notice.

643 b. Each health care facility shall make its records
644 maintained under paragraph (e) available to the agency; to
645 registered nurses and their collective bargaining
646 representatives, if any; and to the public under rules adopted
647 by the agency.

648 3. The agency shall conduct periodic audits to ensure
649 implementation of the staffing plan in accordance with this
650 subsection and to ensure the accuracy of records maintained
651 under paragraph (e).

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

658 (h) The following activities are prohibited:

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

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

667 a. Nursing activities that require nursing assessment and

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668 judgment during implementation;

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

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

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

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

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

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

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

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

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

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

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

719 (b)1. A patient assessment requires direct observation of
720 the patient's signs and symptoms of illness, reaction to
721 treatment, behavior and physical condition, and interpretation
722 of information obtained from the patient and others, including
723 other caregivers on the health care team. A patient assessment
724 requires data collection by a direct care registered nurse and
725 the analysis, synthesis, and evaluation of such data.

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726 2. Only a direct care registered nurse may perform a
727 patient assessment. A licensed practical nurse or licensed
728 psychiatric technician may assist a direct care registered nurse
729 in data collection.

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

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

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

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

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

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

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755 unit.

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

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

770 a. Determines that the personnel assigned the tasks possess
771 the necessary training, experience, and capability to
772 competently and safely perform the tasks to be assigned; and
773 b. Effectively supervises the clinical functions and
774 nursing care tasks performed by the assigned personnel.

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

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784 nursing authority and duty exclusively in the interest of the
785 patient.

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

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

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

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

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

809 1. Before accepting a patient assignment, a direct care
810 registered nurse must have the necessary knowledge, judgment,
811 skills, and ability to provide the required care. It is the
812 responsibility of the direct care registered nurse to determine

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813 whether the nurse is clinically competent to perform the nursing
814 care required by patients in a particular clinical unit or who
815 have a particular diagnosis, condition, prognosis, or other
816 determinative characteristic of nursing care, and whether
817 acceptance of a patient assignment would expose the patient to
818 the risk of harm.

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

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

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

830 2. The assignment would violate subsection (3), subsection
831 (4), or this subsection; or

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

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

838 1. The assigned task would violate a provision of chapter
839 464 or the rules adopted under that chapter;

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

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

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

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

857 a. In the best interest of the patient;

858 b. Initiated by a person legally authorized to issue the
859 order; and

860 c. Issued in accordance with applicable law and rules
861 governing nursing care.

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

869 3. If, upon clarification, the direct care registered nurse
870 determines that the criteria for implementation of an order

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871 provided in subparagraph 1. have not been satisfied, the nurse
872 may refuse implementation on the basis that the order is not in
873 the best interest of the patient. Seeking clarification of an
874 order or refusing an order as described in this subparagraph is
875 an exercise of the direct care registered nurse's duty and right
876 of patient advocacy.

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

884 (6) FREE SPEECH; PATIENT PROTECTION.—

885 (a) A health care facility may not:

886 1. Discharge, discriminate against, or retaliate against in
887 any manner with respect to any aspect of employment, including
888 discharge, promotion, compensation, or terms, conditions, or
889 privileges of employment, a direct care registered nurse based
890 on the nurse's refusal of a work assignment pursuant to
891 paragraph (5) (c) or an assigned task pursuant to paragraph
892 (5) (d).

893 2. File a complaint or a report against a direct care
894 registered nurse with the Board of Nursing or the agency because
895 of the nurse's refusal of a work assignment pursuant to
896 paragraph (5) (c) or an assigned task pursuant to paragraph
897 (5) (d).

898 (b) A direct care registered nurse who has been discharged,
899 discriminated against, or retaliated against in violation of

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900 this section or against whom a complaint or a report has been
901 filed in violation of subparagraph (a)2. may bring a cause of
902 action in a state court. A direct care registered nurse who
903 prevails in the cause of action is entitled to one or more of
904 the following:

- 905 1. Reinstatement.
- 906 2. Reimbursement of lost wages, compensation, and benefits.
- 907 3. Attorney fees.
- 908 4. Court costs.
- 909 5. Other damages.

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

- 914 1. Receive and investigate the complaint;
- 915 2. Determine whether a violation of this section as alleged
916 in the complaint has occurred; and
- 917 3. If such a violation has occurred, issue an order that
918 the complaining nurse, patient, or other individual not suffer
919 any retaliation described in paragraph (a).

920 (d)1. The agency shall provide for the establishment of a
921 toll-free telephone hotline to provide information regarding the
922 requirements of this subsection and to receive reports of
923 violations of this subsection.

924 2. A health care facility shall provide each patient
925 admitted to the facility for inpatient care with the toll-free
926 telephone hotline described in subparagraph 1. and shall give
927 notice to each patient that the hotline may be used to report
928 inadequate staffing or care.

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

940 2. For purposes of this paragraph, an individual is deemed
941 to be acting in good faith if the individual reasonably
942 believes:

943 a. The information reported or disclosed is true; and
944 b. A violation of this section has occurred or may occur.

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

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

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

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

955 3. A health care facility, or an individual representing a
956 health care facility, may not make, adopt, or enforce any rule,
957 regulation, policy, or practice that in any manner directly or

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958 indirectly prohibits, impedes, or discourages a direct care
959 registered nurse from engaging in free speech or disclosing
960 information as provided under this subsection.

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

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

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

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

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

975 (7) ENFORCEMENT.—

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

978 1. Against a health care facility found to have violated a
979 provision of this section, a civil penalty of up to \$25,000 for
980 each violation, except that the agency shall impose a civil
981 penalty of at least \$25,000 for each violation if the agency
982 determines that the health care facility has a pattern of
983 practice of such violation.

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

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

991 Section 3. This act shall take effect July 1, 2017.