A bill to be entitled
An act relating to delivery of nursing services;
creating the "Florida Hospital Patient Protection
Act"; creating s. 395.1014, F.S.; providing
legislative findings; defining terms; requiring that
each health care facility implement a staffing plan
that provides minimum direct care registered nurse
staffing levels; requiring a direct care registered
nurse to demonstrate competence and to receive
specified orientation before being assigned to a
hospital or clinical unit; prohibiting a health care
facility from imposing mandatory overtime and from
engaging in certain other actions; providing
requirements for the staffing plan; specifying the
required ratios of direct care registered nurses to
patients for each type of care provided; prohibiting a
health care facility from using an acuity adjustable
unit to care for a patient; prohibiting a health care
facility from using video cameras or monitors as
substitutes for the required level of care; providing
an exception during a declared state of emergency;
requiring that the chief nursing officer of a health
care facility, or his or her designee, develop a
staffing plan that meets the required direct care
registered nurse staffing levels; requiring that a
health care facility annually evaluate its actual
direct care registered nurse staffing levels and
update the staffing plan and acuity-based patient
classification system; requiring that certain
documentation be submitted to the Agency for Health
Care Administration and be made available for public
inspection; requiring that the agency approve uniform
standards for use by health care facilities in
establishing direct care registered nurse staffing
requirements by a specified date; providing
requirements for the committee members who are
appointed to develop the uniform standards; requiring
health care facilities to annually report certain
information to the agency and to post a notice
containing such information in each unit of the
facility; providing recordkeeping requirements;
prohibiting a health care facility from assigning
unlicensed personnel to perform functions or tasks
that should be performed by a licensed or registered
nurse; specifying those actions that constitute
professional practice by a direct care registered
nurse; requiring that a patient assessment be
performed only by a direct care registered nurse;
authorizing a direct care registered nurse to assign
certain specified activities to other licensed or
unlicensed nursing staff under certain circumstances; prohibiting a health care facility from deploying technology that limits certain care provided by a direct care registered nurse; providing applicability; providing that it is a duty and right of a direct care registered nurse to act as the patient's advocate and providing requirements relating thereto; prohibiting a direct care registered nurse from accepting an assignment under specified circumstances; authorizing a direct care registered nurse to refuse to accept an assignment or to perform a task under certain circumstances; requiring a direct care registered nurse to initiate action or to change a decision or an activity relating to a patient's health care under certain circumstances; prohibiting a health care facility from discharging, or from discriminating, retaliating, or filing a complaint or report against, a direct care registered nurse based on such refusal; providing that a direct care registered nurse has a right of action against a health care facility that violates certain provisions; requiring that the agency establish a toll-free telephone hotline to provide certain information and to receive reports of certain violations; requiring that certain information be provided to each patient who is admitted to a health
care facility; prohibiting a health care facility from engaging in certain actions; prohibiting a health care facility from interfering with the right of direct care registered nurses to organize, bargain collectively, and engage in concerted activity under a federal act; authorizing the agency to impose fines for violations; requiring that the agency post on its website information regarding health care facilities on which civil penalties have been imposed; providing an effective date.

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

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

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

395.1014 Health care facility patient care standards.—
(1) LEGISLATIVE FINDINGS.—The Legislature finds that:
(a) The state has a substantial interest in ensuring that, in the delivery of health care services to patients, health care facilities retain sufficient nursing staff to promote optimal health care outcomes.
(b) Health care services are becoming more complex and it is increasingly difficult for patients to access integrated
services. Competent, safe, therapeutic, and effective patient care is jeopardized because of staffing changes implemented in response to market-driven managed care. To ensure effective protection of patients in acute care settings, it is essential that qualified direct care registered nurses be accessible and available to meet the individual needs of the patient at all times. Also, to ensure the health and welfare of residents and to ensure that hospital nursing care is provided in the exclusive interests of patients, mandatory practice standards and professional practice protections for professional direct care registered nursing staff must be established. Direct care registered nurses have a duty to care for assigned patients and a necessary duty of individual and collective patient advocacy to satisfy professional obligations.

(c) The basic principles of staffing in hospital settings should be based on the care needs of the individual patient, the severity of the patient's condition, the services needed, and the complexity surrounding those services. Current unsafe practices by hospital direct care registered nursing staff have resulted in adverse patient outcomes. Mandating the adoption of uniform, minimum, numerical, and specific direct care registered nurse-to-patient staffing ratios by licensed hospital facilities is necessary for competent, safe, therapeutic, and effective professional nursing care and for the retention and recruitment of qualified direct care registered nurses.
(d) Direct care registered nurses must be able to advocate for their patients without fear of retaliation from their employers. Whistle-blower protections that encourage direct care registered nurses and patients to notify governmental and private accreditation entities of suspected unsafe patient conditions, including protection against retaliation for refusing unsafe patient care assignments, will greatly enhance the health, safety, and welfare of patients.

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

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

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

1. Predicts registered nursing care requirements for individual patients based on the severity of a patient's illness; the need for specialized equipment and technology; the intensity of required nursing interventions; the complexity of clinical nursing judgment required to design, implement, and evaluate the patient nursing care plan consistent with professional standards; the ability for self-care, including motor, sensory, and cognitive deficits; and the need for advocacy intervention;
2. Details the amount of nursing care needed and the additional number of direct care registered nurses and other licensed and unlicensed nursing staff that the hospital must assign, based on the independent professional judgment of a direct care registered nurse, to meet the needs of individual patients at all times; and

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

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

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

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

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

(f) "Direct care registered nurse" means a registered
nurse or licensed practical nurse, as defined in s. 464.003:
1. Who is licensed by the Board of Nursing to engage in
the practice of professional nursing or the practice of
practical nursing, as defined in s. 464.003;
2. Whose competence has been documented; and
3. Who has accepted a direct, hands-on patient care
assignment to implement medical and nursing regimens and provide
related clinical supervision of patient care while exercising
independent professional judgment at all times in the exclusive
interests of the patient.

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

(h) "Hospital unit" or "clinical unit" means an acuity
adjustable unit, critical care unit or intensive care unit,
labor and delivery unit, antepartum and postpartum unit, newborn
nursery, postanesthesia unit, emergency department, operating
room, pediatric unit, rehabilitation unit, skilled nursing unit,
specialty care unit, step-down unit or intermediate intensive
care unit, surgical unit, telemetry unit, or psychiatric unit.

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

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

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

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

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

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

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

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

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

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

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

(j) "Overtime" means the hours worked in excess of:
   1. An agreed-upon, predetermined, regularly scheduled shift;
   2. Twelve hours in a 24-hour period; or
   3. Eighty hours in a 14-day period.

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

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

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

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

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

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

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

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

5. In the emergency department, only a direct care registered nurse may be assigned to a triage patient or a critical care patient.
   a. The direct care registered nurse staffing level for triage patients or critical care patients in the emergency department must be one such nurse to two or fewer patients at all times.
   b. At least two direct care registered nurses must be physically present in the emergency department when a patient is present.
   c. Triage, radio, specialty, or flight registered nurses do not count in the calculation of direct care registered nurse staffing levels. Triage registered nurses may not be assigned the responsibility of the base radio.

6. Only a direct care registered nurse may be assigned to a labor and delivery unit.
a. The direct care registered nurse staffing level must be one such nurse to one active labor patient, or one patient having medical or obstetrical complications, during the initiation of epidural anesthesia and during circulation for a caesarean section delivery.

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

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

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

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

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

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

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

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

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

1. One patient in a trauma emergency unit;
2. One patient in an operating room unit. The operating
   room must have at least one direct care registered nurse
   assigned to the duties of the circulating registered nurse and a
   minimum of one additional person as a scrub assistant for each
   patient-occupied operating room;
3. Two patients in a critical care unit, including
   neonatal intensive care units; emergency critical care and
   intensive care units; labor and delivery units; coronary care
   units; acute respiratory care units; postanesthesia units,
   regardless of the type of anesthesia administered; and
   postpartum units, so that the direct care registered nurse
staffing level is one such nurse to two or fewer patients at all times;

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

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

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

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

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

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

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CODING: Words stricken are deletions; words underlined are additions.
levels identified for the level of intensity or type of care described in paragraphs (a) and (b).

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

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

(d) The requirements established under this subsection do not apply during a declared state of emergency, as defined in subsection (2), if a health care facility is requested or expected to provide an exceptional level of emergency or other medical services.

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

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

2. In addition to the requirements of direct care registered nurse staffing levels in paragraphs (a) and (b), each health care facility shall assign additional nursing staff, including, but not limited to, licensed practical nurses, licensed psychiatric technicians, and certified nursing assistants, through the implementation of a valid acuity-based patient classification system for determining nursing care needs of individual patients which reflects the assessment of patient nursing care requirements made by the assigned direct care registered nurse and which provides for shift-by-shift staffing based on those requirements. The direct care registered nurse staffing levels specified in paragraphs (a) and (b) constitute the minimum number of direct care registered nurses who shall be assigned to provide direct patient care.

3. In developing the staffing plan, a health care facility shall provide for direct care registered nurse staffing levels that are above the minimum levels required in paragraphs (a) and (b) based upon consideration of the following factors:
   a. The number of patients and their acuity levels as determined by the application of a patient classification system on a shift-by-shift basis.
   b. The anticipated admissions, discharges, and transfers
of patients during each shift which affect direct patient care.

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

d. Staffing levels of other health care personnel who
provide direct patient care services for patients who normally
do not require care by a direct care registered nurse.

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

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

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

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

5. A health care facility shall annually evaluate:

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

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

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

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

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

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

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

b. In case of a dispute, the direct care registered nurse assessment shall prevail.
c. This section does not authorize conduct that is prohibited under the National Labor Relations Act or the Federal Labor Relations Act of 1978.

9. By July 1, 2020, the agency shall approve uniform statewide standards for a standardized acuity tool for use in health care facilities. The standardized acuity tool must provide a method for establishing direct care registered nurse staffing requirements that exceed the required direct care registered nurse staffing levels in the hospital units or clinical units in paragraphs (a) and (b).

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

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

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

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

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

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

a. Explains the requirements imposed under this subsection;

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

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

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

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

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

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

(I) The number of patients in each unit;

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

(III) A copy of each posted notice.

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

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

(g) A health care facility shall plan for routine fluctuations such as admissions, discharges, and transfers in the patient census. If a declared state of emergency causes a change in the number of patients in a unit, the health care facility must demonstrate that immediate and diligent efforts
676 are made to maintain required staffing levels.
677 (h) The following activities are prohibited:
678 1. The direct assignment of unlicensed personnel by a
679 health care facility to perform functions required of a direct
680 care registered nurse in lieu of care being delivered by a
681 licensed or registered nurse under the clinical supervision of a
682 direct care registered nurse.
683 2. The performance of patient care tasks by unlicensed
684 personnel that require the clinical assessment, judgment, and
685 skill of a licensed or registered nurse, including, but not
686 limited to:
687 a. Nursing activities that require nursing assessment and
688 judgment during implementation;
689 b. Physical, psychological, or social assessments that
690 require nursing judgment, intervention, referral, or followup;
691 and
692 c. Formulation of a plan of nursing care and evaluation of
693 a patient's response to the care provided, including
694 administration of medication; venipuncture or intravenous
695 therapy; parenteral or tube feedings; invasive procedures,
696 including inserting nasogastric tubes, inserting catheters, or
697 tracheal suctioning; and educating a patient and the patient's
698 family concerning the patient's health care problems, including
699 postdischarge care. However, a phlebotomist, emergency room
700 technician, or medical technician may, under the general
supervision of the clinical laboratory director, or his or her
designee, or a physician, perform venipunctures in accordance
with written hospital policies and procedures.

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

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

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

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

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

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

5. The nursing plan for the patient care, which shall be
discussed with and developed as a result of coordination with
the patient, the patient's family or other representatives, when
appropriate, and the staff of other disciplines involved in the
6. An evaluation of the effectiveness of the care plan through assessments based on direct observation of the patient's physical condition and behavior, signs and symptoms of illness, and reactions to treatment, and through communication with the patient and the health care team members, and modification of the plan as needed.

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

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

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

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

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

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

(e)1. In addition to the prohibition on assignments of patient care tasks provided in paragraph (3)(h), a direct care registered nurse may not assign tasks required to implement nursing care for a patient to other licensed nursing staff or to
unlicensed staff unless the assigning direct care registered
nurse:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The direct care registered nurse shall assess each such order before implementation to determine if the order is:
   a. In the exclusive interests of the patient;
   b. Initiated by a person legally authorized to issue the order; and
   c. Issued in accordance with the applicable laws and rules governing nursing care.

2. If the direct care registered nurse determines that the criteria provided in subparagraph 1. have not been satisfied with respect to a particular order or if the direct care registered nurse has some doubt regarding the meaning or conformance of the order with such criteria, he or she shall seek clarification from the initiator of the order, the patient's physician, or another appropriate medical officer before implementing the order.
3. If, upon clarification, the direct care registered nurse determines that the criteria for implementation of an order provided in subparagraph 1. have not been satisfied, the direct care registered nurse may refuse implementation on the basis that the order is not in the exclusive interests of the patient. Seeking clarification of an order or refusing an order as described in this subparagraph is an exercise of the direct care registered nurse's duty and right of patient advocacy.

(f) A direct care registered nurse shall, as circumstances require, initiate action to improve the patient's health care or to change a decision or activity that, in the professional judgment of the direct care registered nurse, is against the exclusive interests or desires of the patient or shall give the patient the opportunity to make informed decisions about the health care before it is provided.

(6) FREE SPEECH; PATIENT PROTECTION.—

(a) A health care facility may not:

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

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

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

1. Reinstatement.
2. Reimbursement of lost wages, compensation, and benefits.
3. Attorney fees.
4. Court costs.
5. Other damages.

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

1. Receive and investigate the complaint;
2. Determine whether a violation of this section as alleged in the complaint has occurred; and
3. If such a violation has occurred, issue an order
prohibiting the health care facility from subjecting the
complaining direct care registered nurse, the patient, or the
other individual to any retaliation described in paragraph (a).

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

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

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

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

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

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

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

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

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

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

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

c. Provides instructions on how to file a complaint.

(f)1. The agency shall establish a toll-free telephone hotline to provide information regarding the requirements of this section and to receive reports of violations of this section.
section.

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

(7) ENFORCEMENT.—

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

1. Against a health care facility that violates this section, a civil penalty of up to $25,000 for each violation, except that the agency shall impose a civil penalty of at least $25,000 for each violation if the agency determines that the health care facility has a pattern of such violation.

2. Against an individual who is employed by a health care facility who violates this section, a civil penalty of up to $20,000 for each violation.

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

Section 3. This act shall take effect July 1, 2019.