

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

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

51 | authorizing a direct care registered nurse to assign  
52 | certain specified activities to other licensed or  
53 | unlicensed nursing staff under certain circumstances;  
54 | prohibiting a health care facility from deploying  
55 | technology that limits certain care provided by a  
56 | direct care registered nurse; providing applicability;  
57 | providing that it is a duty and right of a direct care  
58 | registered nurse to act as the patient's advocate and  
59 | providing requirements relating thereto; prohibiting a  
60 | direct care registered nurse from accepting an  
61 | assignment under specified circumstances; authorizing  
62 | a direct care registered nurse to refuse to accept an  
63 | assignment or to perform a task under certain  
64 | circumstances; requiring a direct care registered  
65 | nurse to initiate action or to change a decision or an  
66 | activity relating to a patient's health care under  
67 | certain circumstances; prohibiting a health care  
68 | facility from discharging, or from discriminating,  
69 | retaliating, or filing a complaint or report against,  
70 | a direct care registered nurse based on such refusal;  
71 | authorizing a direct care registered nurse to bring a  
72 | cause of action under certain circumstances;  
73 | authorizing certain entities to file a complaint with  
74 | the agency against a health care facility under  
75 | certain circumstances; requiring the agency to

76 investigate such complaints and issue certain orders  
77 if certain findings are made; prohibiting a health  
78 care facility from discriminating or retaliating  
79 against those entities making such complaints;  
80 prohibiting a health care facility from taking certain  
81 actions in certain situations; prohibiting a health  
82 care facility from interfering with the right of  
83 direct care registered nurses to organize, bargain  
84 collectively, and engage in concerted activity under a  
85 federal act; requiring a health care facility to post  
86 a certain notice in each hospital or clinical unit;  
87 requiring that the agency establish a toll-free  
88 telephone hotline to provide certain information and  
89 to receive reports of certain violations; requiring  
90 that certain information be provided to each patient  
91 who is admitted to a health care facility; authorizing  
92 the agency to impose fines for violations; requiring  
93 that the agency post on its website information  
94 regarding health care facilities on which civil  
95 penalties have been imposed; providing an effective  
96 date.

97  
98 Be It Enacted by the Legislature of the State of Florida:

99  
100 Section 1. Short title.—This act may be cited as the

101 "Florida Hospital Patient Protection Act."

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

104 395.1014 Health care facility patient care standards.—

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

106 (a) The state has a substantial interest in ensuring that,  
107 in the delivery of health care services to patients, health care  
108 facilities retain sufficient nursing staff to promote optimal  
109 health care outcomes.

110 (b) Health care services are becoming more complex, and it  
111 is increasingly difficult for patients to access integrated  
112 services. Competent, safe, therapeutic, and effective patient  
113 care is jeopardized because of staffing changes implemented in  
114 response to market-driven managed care. To ensure effective  
115 protection of patients in acute care settings, it is essential  
116 that qualified direct care registered nurses be accessible and  
117 available to meet the individual needs of the patient at all  
118 times. Also, to ensure the health and welfare of residents and  
119 to ensure that hospital nursing care is provided in the  
120 exclusive interests of patients, mandatory practice standards  
121 and professional practice protections for professional direct  
122 care registered nursing staff must be established. Direct care  
123 registered nurses have a duty to care for assigned patients and  
124 a necessary duty of individual and collective patient advocacy  
125 to satisfy professional obligations.

126        (c) The basic principles of staffing in hospital settings  
127        should be based on the care needs of the individual patient, the  
128        severity of the patient's condition, the services needed, and  
129        the complexity surrounding those services. Current unsafe  
130        practices by hospital direct care registered nursing staff have  
131        resulted in adverse patient outcomes. Mandating the adoption of  
132        uniform, minimum, numerical, and specific direct care registered  
133        nurse-to-patient staffing ratios by licensed hospital facilities  
134        is necessary for competent, safe, therapeutic, and effective  
135        professional nursing care and for the retention and recruitment  
136        of qualified direct care registered nurses.

137        (d) Direct care registered nurses must be able to advocate  
138        for their patients without fear of retaliation from their  
139        employers. Whistle-blower protections that encourage direct care  
140        registered nurses and patients to notify governmental and  
141        private accreditation entities of suspected unsafe patient  
142        conditions, including protection against retaliation for  
143        refusing unsafe patient care assignments, will greatly enhance  
144        the health, safety, and welfare of patients.

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

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

150        (a) "Acuity-based patient classification system" or

151 "patient classification system" means an established measurement  
152 tool that:

153 1. Predicts registered nursing care requirements for  
154 individual patients based on the severity of a patient's  
155 illness; the need for specialized equipment and technology; the  
156 intensity of required nursing interventions; the complexity of  
157 clinical nursing judgment required to design, implement, and  
158 evaluate the patient nursing care plan consistent with  
159 professional standards; the ability for self-care, including  
160 motor, sensory, and cognitive deficits; and the need for  
161 advocacy intervention;

162 2. Details the amount of nursing care needed and the  
163 additional number of direct care registered nurses and other  
164 licensed and unlicensed nursing staff that the hospital must  
165 assign, based on the independent professional judgment of a  
166 direct care registered nurse, to meet the needs of individual  
167 patients at all times; and

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

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

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

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

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

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

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

196        2. Whose competence has been documented; and

197        3. Who has accepted a direct, hands-on patient care  
198 assignment to implement medical and nursing regimens and provide  
199 related clinical supervision of patient care while exercising  
200 independent professional judgment at all times in the exclusive



201 interests of the patient.

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

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

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

216 2. "Critical care unit" or "intensive care unit" means a  
217 nursing unit established to safeguard and protect a patient  
218 whose severity of medical condition requires continuous  
219 monitoring and complex intervention by a direct care registered  
220 nurse and whose restorative measures and level of nursing  
221 intensity require intensive care through direct observation;  
222 complex monitoring; intensive intricate assessment; evaluation;  
223 specialized rapid intervention; and education or teaching of the  
224 patient, the patient's family, or other representatives by a  
225 competent and experienced direct care registered nurse. The term

226 includes a burn unit, coronary care unit, or acute respiratory  
227 unit.

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

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

242 5. "Specialty care unit" means a unit established to  
243 safeguard and protect a patient whose severity of illness,  
244 including all co-occurring morbidities, restorative measures,  
245 and level of nursing intensity, requires continuous care through  
246 direct observation and monitoring; multiple assessments;  
247 specialized interventions; evaluations; and education or  
248 teaching of the patient, the patient's family, or other  
249 representatives by a competent and experienced direct care  
250 registered nurse. The term includes, but is not limited to, a

251 unit established to provide the intensity of care required for a  
252 specific medical condition or a specific patient population or  
253 to provide more comprehensive care for a specific condition or  
254 disease than the care required in a surgical unit.

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

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

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

276 care than the care provided in a surgical unit.

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

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

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

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

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

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

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

325 (3) MINIMUM DIRECT CARE REGISTERED NURSE STAFFING LEVEL

326 REQUIREMENTS.—

327 (a) A health care facility shall implement a staffing plan  
328 that provides for a minimum direct care registered nurse  
329 staffing level in accordance with the general requirements set  
330 forth in this subsection and the direct care registered nurse  
331 staffing levels in a clinical unit as specified in paragraph  
332 (b). Staffing levels for patient care tasks that do not require  
333 a direct care registered nurse are not included within these  
334 ratios and shall be determined pursuant to an acuity-based  
335 patient classification system defined by agency rule.

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

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

349 3. A health care facility:

350 a. May not average the total number of patients and the

351 total number of direct care registered nurses assigned to  
352 patients in a hospital unit or clinical unit during any period  
353 for purposes of meeting the requirements under this subsection.

354 b. May not impose mandatory overtime in order to meet the  
355 minimum direct care registered nurse staffing levels in the  
356 hospital unit or clinical unit which are required under this  
357 subsection.

358 c. Shall ensure that only a direct care registered nurse  
359 may relieve another direct care registered nurse during breaks,  
360 meals, and routine absences from a hospital unit or clinical  
361 unit.

362 d. May not lay off licensed practical nurses, licensed  
363 psychiatric technicians, certified nursing assistants, or other  
364 ancillary support staff to meet the direct care registered nurse  
365 staffing levels required in this subsection for a hospital unit  
366 or clinical unit.

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

371 5. In the emergency department, only a direct care  
372 registered nurse may be assigned to a triage patient or a  
373 critical care patient.

374 a. The direct care registered nurse staffing level for  
375 triage patients or critical care patients in the emergency

376 department must be one such nurse to two or fewer patients at  
 377 all times.

378 b. At least two direct care registered nurses must be  
 379 physically present in the emergency department when a patient is  
 380 present.

381 c. Triage, radio, specialty, or flight registered nurses  
 382 do not count in the calculation of direct care registered nurse  
 383 staffing levels. Triage registered nurses may not be assigned  
 384 the responsibility of the base radio.

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

387 a. The direct care registered nurse staffing level must be  
 388 one such nurse to one active labor patient, or one patient  
 389 having medical or obstetrical complications, during the  
 390 initiation of epidural anesthesia and during circulation for a  
 391 caesarean section delivery.

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

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

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



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

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

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

411 h. The direct care registered nurse staffing level for  
412 unstable newborns and newborns in the resuscitation period as  
413 assessed by a direct care registered nurse must be at least one  
414 such nurse to one patient at all times.

415 i. The direct care registered nurse staffing level for  
416 newborns must be one such nurse to four or fewer patients at all  
417 times.

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

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

425 1. One patient in a trauma emergency unit;

426        2. One patient in an operating room unit. The operating  
427 room must have at least one direct care registered nurse  
428 assigned to the duties of the circulating registered nurse and a  
429 minimum of one additional person as a scrub assistant for each  
430 patient-occupied operating room;

431        3. Two patients in a critical care unit, including  
432 neonatal intensive care units; emergency critical care and  
433 intensive care units; labor and delivery units; coronary care  
434 units; acute respiratory care units; postanesthesia units,  
435 regardless of the type of anesthesia administered; and  
436 postpartum units, so that the direct care registered nurse  
437 staffing level is one such nurse to two or fewer patients at all  
438 times;

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

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

449        6. Five patients in a rehabilitation unit or skilled  
450 nursing unit so that the direct care registered nurse staffing

451 level is one such nurse to five or fewer patients at all times;

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

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

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

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

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

475 (d) The requirements established under this subsection do

476 not apply during a declared state of emergency, as defined in  
477 subsection (2), if a health care facility is requested or  
478 expected to provide an exceptional level of emergency or other  
479 medical services.

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

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

490 2. In addition to the requirements of direct care  
491 registered nurse staffing levels in paragraphs (a) and (b), each  
492 health care facility shall assign additional nursing staff,  
493 including, but not limited to, licensed practical nurses,  
494 licensed psychiatric technicians, and certified nursing  
495 assistants, through the implementation of a valid acuity-based  
496 patient classification system for determining nursing care needs  
497 of individual patients which reflects the assessment of patient  
498 nursing care requirements made by the assigned direct care  
499 registered nurse and which provides for shift-by-shift staffing  
500 based on those requirements. The direct care registered nurse

501 staffing levels specified in paragraphs (a) and (b) constitute  
502 the minimum number of direct care registered nurses who shall be  
503 assigned to provide direct patient care.

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

508 a. The number of patients and their acuity levels as  
509 determined by the application of a patient classification system  
510 on a shift-by-shift basis.

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

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

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

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

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

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

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

529        5. A health care facility shall annually evaluate:

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

538        b. The validity of the acuity-based patient classification  
539 system.

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

547        7. Any acuity-based patient classification system adopted  
548 by a health care facility under this subsection must be  
549 transparent in all respects, including disclosure of detailed  
550 documentation of the methodology used to predict nurse staffing;

551 an identification of each factor, assumption, and value used in  
552 applying such methodology; an explanation of the scientific and  
553 empirical basis for each such assumption and value; and  
554 certification by a knowledgeable and authorized representative  
555 of the health care facility that the disclosures regarding  
556 methods used for testing and validating the accuracy and  
557 reliability of such system are true and complete.

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

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

575 8. A staffing plan of a health care facility shall be

576 developed and evaluated by a committee created by the health  
577 care facility. At least half of the members of the committee  
578 must be unit-specific competent direct care registered nurses.

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

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

587 c. This section does not authorize conduct that is  
588 prohibited under the National Labor Relations Act or the Federal  
589 Labor Relations Act of 1978.

590 9. By July 1, 2021, the agency shall approve uniform  
591 statewide standards for a standardized acuity tool for use in  
592 health care facilities. The standardized acuity tool must  
593 provide a method for establishing direct care registered nurse  
594 staffing requirements that exceed the required direct care  
595 registered nurse staffing levels in the hospital units or  
596 clinical units in paragraphs (a) and (b).

597 a. The proposed standards shall be developed by a  
598 committee created by the health care facility consisting of up  
599 to 20 members. At least 11 of the committee members must be  
600 registered nurses who are currently licensed and employed as



601 direct care registered nurses, and the remaining committee  
602 members must include a sufficient number of technical or  
603 scientific experts in specialized fields who are involved in the  
604 design and development of an acuity-based patient classification  
605 system that meets the requirements of this section.

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

619 c. Within 1 year after the official commencement of  
620 committee operations, the committee shall provide a written  
621 report to the agency which proposes uniform standards for a  
622 valid, acuity-based patient classification system, along with a  
623 sufficient explanation and justification to allow for competent  
624 review and determination of sufficiency by the agency. The  
625 agency shall disclose the report to the public upon notice of

626 public hearings and provide a public comment period for proposed  
627 adoption of uniform standards for an acuity-based patient  
628 classification system by the agency.

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

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

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

642 a. Explains the requirements imposed under this  
643 subsection;

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

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

648 d. Identifies staffing requirements as determined by the  
649 acuity-based patient classification system for each hospital  
650 unit or clinical unit, documented and posted in the unit for

651 public view on a day-to-day, shift-by-shift basis;

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

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

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

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

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

670 (III) A copy of each posted notice.

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

676 and to the public under rules adopted by the agency.

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

682 (g) A health care facility shall plan for routine  
683 fluctuations such as admissions, discharges, and transfers in  
684 the patient census. If a declared state of emergency causes a  
685 change in the number of patients in a unit, the health care  
686 facility must demonstrate that immediate and diligent efforts  
687 are made to maintain required staffing levels.

688 (h) The following activities are prohibited:

689 1. The direct assignment of unlicensed personnel by a  
690 health care facility to perform functions required of a direct  
691 care registered nurse in lieu of care being delivered by a  
692 licensed or registered nurse under the clinical supervision of a  
693 direct care registered nurse.

694 2. The performance of patient care tasks by unlicensed  
695 personnel which require the clinical assessment, judgment, and  
696 skill of a licensed or registered nurse, including, but not  
697 limited to:

698 a. Nursing activities that require nursing assessment and  
699 judgment during implementation;

700 b. Physical, psychological, or social assessments that

701 require nursing judgment, intervention, referral, or followup;  
702 and

703 c. Formulation of a plan of nursing care and evaluation of  
704 a patient's response to the care provided, including  
705 administration of medication; venipuncture or intravenous  
706 therapy; parenteral or tube feedings; invasive procedures,  
707 including inserting nasogastric tubes, inserting catheters, or  
708 tracheal suctioning; and educating a patient and the patient's  
709 family concerning the patient's health care problems, including  
710 postdischarge care. However, a phlebotomist, emergency room  
711 technician, or medical technician may, under the general  
712 supervision of the clinical laboratory director, or his or her  
713 designee, or a physician, perform venipunctures in accordance  
714 with written hospital policies and procedures.

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

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

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

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

725 3. The assessment, planning, implementation, and

726 evaluation of patient education, including the ongoing  
727 postdischarge education of each patient.

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

733 5. The nursing plan for the patient care, which shall be  
734 discussed with and developed as a result of coordination with  
735 the patient, the patient's family or other representatives, when  
736 appropriate, and the staff of other disciplines involved in the  
737 care of the patient.

738 6. An evaluation of the effectiveness of the care plan  
739 through assessments based on direct observation of the patient's  
740 physical condition and behavior, signs and symptoms of illness,  
741 and reactions to treatment, and through communication with the  
742 patient and the health care team members, and modification of  
743 the plan as needed.

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

750 (b)1. A patient assessment requires direct observation of

751 the patient's signs and symptoms of illness, reaction to  
752 treatment, behavior and physical condition, and interpretation  
753 of information obtained from the patient and others, including  
754 the health care team members. A patient assessment requires data  
755 collection by a direct care registered nurse and the analysis,  
756 synthesis, and evaluation of such data.

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

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

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

771 (d) Competent performance of the essential functions of a  
772 direct care registered nurse as provided in this section  
773 requires the exercise of independent judgment in the exclusive  
774 interests of the patient. A direct care registered nurse's  
775 independent judgment while performing the functions described in

776 this section shall be provided in the exclusive interests of the  
777 patient and may not, for any purpose, be considered, relied  
778 upon, or represented as a job function, authority,  
779 responsibility, or activity undertaken in any respect for the  
780 purpose of serving the business, commercial, operational, or  
781 other institutional interests of the health care facility  
782 employer.

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

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

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

794 2. The exercise of clinical supervision of nursing care  
795 personnel by a direct care registered nurse in the performance  
796 of the functions as provided in this subsection must be in the  
797 exclusive interests of the patient and may not, for any purpose,  
798 be considered, relied upon, or represented as a job function,  
799 authority, responsibility, or activity undertaken in any respect  
800 for the purpose of serving the business, commercial,



801 operational, or other institutional interests of the health care  
802 facility employer, but constitutes the exercise of professional  
803 nursing authority and duty in the exclusive interests of the  
804 patient.

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

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

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

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

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

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

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

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

845 1. The assignment would violate chapter 464 or rules  
846 adopted thereunder;

847 2. The assignment would violate subsection (3), subsection  
848 (4), or this subsection; or

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

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

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

855 1. The assigned task would violate chapter 464 or rules  
856 adopted thereunder;

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

859 3. The direct care registered nurse is not prepared by  
860 education, training, or experience to fulfill the assigned task  
861 without compromising the safety of a patient or jeopardizing the  
862 license of the direct care registered nurse.

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

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

874 a. In the exclusive interests of the patient;

875 b. Initiated by a person legally authorized to issue the

876 order; and

877 c. Issued in accordance with the applicable laws and rules  
878 governing nursing care.

879 2. If the direct care registered nurse determines that the  
880 criteria provided in subparagraph 1. have not been satisfied  
881 with respect to a particular order or if the direct care  
882 registered nurse has some doubt regarding the meaning or  
883 conformance of the order with such criteria, he or she shall  
884 seek clarification from the initiator of the order, the  
885 patient's physician, or another appropriate medical officer  
886 before implementing the order.

887 3. If, upon clarification, the direct care registered  
888 nurse determines that the criteria for implementation of an  
889 order provided in subparagraph 1. have not been satisfied, the  
890 direct care registered nurse may refuse implementation on the  
891 basis that the order is not in the exclusive interests of the  
892 patient. Seeking clarification of an order or refusing an order  
893 as described in this subparagraph is an exercise of the direct  
894 care registered nurse's duty and right of patient advocacy.

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

901 health care before it is provided.

902 (6) FREE SPEECH; PATIENT PROTECTION.—

903 (a) A health care facility may not:

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

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

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

923 1. Reinstatement.

924 2. Reimbursement of lost wages, compensation, and  
 925 benefits.

- 926        3. Attorney fees.
- 927        4. Court costs.
- 928        5. Other damages.

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

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

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

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

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

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

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

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

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

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

975 5. A health care facility shall post in an appropriate

976 | location in each hospital unit or clinical unit a notice in a  
 977 | form specified by the agency which:

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

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

983 | c. Provides instructions on how to file a complaint.

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

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

993 | (7) ENFORCEMENT.—

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

996 | 1. Against a health care facility that violates this  
 997 | section, a civil penalty of up to \$25,000 for each violation,  
 998 | except that the agency shall impose a civil penalty of at least  
 999 | \$25,000 for each violation if the agency determines that the  
 1000 | health care facility has a pattern of such violation.



1001           2. Against an individual who is employed by a health care  
1002 facility who violates this section, a civil penalty of up to  
1003 \$20,000 for each violation.

1004           (b) The agency shall post on its website the names of  
1005 health care facilities against which civil penalties have been  
1006 imposed under this subsection and such additional information as  
1007 the agency deems necessary.

1008           Section 3. This act shall take effect July 1, 2020.