

By Senator Braynon

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

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

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

72

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

74

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

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

79 395.1014 Health care facility patient care standards.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

174 (g) "Health care facility" means an acute care hospital; an

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

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

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

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

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

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204 shortest possible time, compatible with his or her physical,  
205 intellectual, and emotional or psychological capabilities and in  
206 accordance with planned goals and objectives.

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

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

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



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233 observation by a direct care registered nurse and monitoring,  
234 multiple assessments, specialized interventions, evaluations,  
235 and education or teaching of the patient, the patient's family,  
236 or other representatives by a competent and experienced direct  
237 care registered nurse. The term includes units established to  
238 provide care to patients who have moderate or potentially severe  
239 physiologic instability requiring technical support, but not  
240 necessarily artificial life support. As used in this  
241 subparagraph, the term:

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

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

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

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262 care, or both general medical and postsurgical care; and mixed  
263 populations of patients of diverse diagnoses and diverse age  
264 groups, but excluding pediatric patients.

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

277 (i) "Licensed nurse" means a registered nurse or a licensed  
278 practical nurse, as defined in s. 464.003, who is licensed by  
279 the Board of Nursing to engage in the practice of professional  
280 nursing or the practice of practical nursing, as defined in s.  
281 464.003.

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

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

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

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

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

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

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

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

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

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

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

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

329 3. A health care facility:

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

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

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

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

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

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349 specifically requires a direct care registered nurse staffing  
350 level of one nurse to two or fewer infants at all times.

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

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

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

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

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

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

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

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

376 c. In the event of a caesarean delivery, the total number  
377 of mothers plus infants assigned to a single direct care

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378 registered nurse may not exceed four.

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

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

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

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

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

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

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

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

406 1. One patient in a trauma emergency unit;

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

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

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

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

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

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

435       8. Three mother plus infant couplets in a postpartum unit

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436 so that the direct care registered nurse staffing level is one  
437 nurse to three or fewer mother plus infant couplets at all  
438 times.

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

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

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

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

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

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



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465 nurses and other licensed and unlicensed personnel. The direct  
466 care registered nurse staffing level on any shift may not at any  
467 time fall below the requirements of paragraphs (a) and (b).

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

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

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

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

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

493 d. Staffing levels of other health care personnel who

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494 provide services for direct patient care needs which normally do  
495 not require care by a direct care registered nurse.

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

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

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

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

505 5. A health care facility shall annually evaluate:

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

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

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

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

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

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

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

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

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

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

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

563 9. By July 1, 2015, the agency shall approve uniform  
564 statewide standards for a standardized acuity tool for use in  
565 health care facilities. The standardized acuity tool will  
566 provide a method for establishing nurse staffing requirements  
567 that exceed the required direct care registered nurse staffing  
568 levels in the hospital units or clinical units under paragraphs  
569 (a) and (b).

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

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

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

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

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

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

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610 staffing plan and annual update required under this paragraph.

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

614 a. Explains the requirements imposed under this subsection;

615 b. Includes actual direct care registered nurse staffing  
616 levels during each shift;

617 c. Is visible, conspicuous, and accessible to staff,  
618 patients, and the public;

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

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

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

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

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

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

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639 and640 (III) A copy of each posted notice.

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

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

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

656 (h) The following activities are prohibited:

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

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

665 a. Nursing activities that require nursing assessment and  
666 judgment during implementation;

667 b. Physical, psychological, or social assessments that

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668 require nursing judgment, intervention, referral, or followup;  
669 and

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

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

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

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

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

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

695 4. The delivery of patient care, which must reflect all  
696 elements of the nursing process and must include assessment,



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697 nursing diagnosis, planning, intervention, evaluation, and, as  
698 circumstances require, patient advocacy and shall be initiated  
699 by a direct care registered nurse at the time of admission.

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

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

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

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

724 2. Only a direct care registered nurse may perform a  
725 patient assessment. A licensed practical nurse or licensed

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726 psychiatric technician may assist a direct care registered nurse  
727 in data collection.

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

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

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

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

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

751 b. The standards required under subsection (3) and this  
752 subsection, which are specific to each hospital unit or clinical  
753 unit.

754 2. A direct care registered nurse's independent judgment

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

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

768 a. Determines that the personnel assigned the tasks possess  
769 the necessary training, experience, and capability to  
770 competently and safely perform the tasks to be assigned; and

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

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

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

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

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

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

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

807 1. Before accepting a patient assignment, a direct care  
808 registered nurse must have the necessary knowledge, judgment,  
809 skills, and ability to provide the required care. It is the  
810 responsibility of the direct care registered nurse to determine  
811 whether the nurse is clinically competent to perform the nursing  
812 care required by patients in a particular clinical unit or who

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813 have a particular diagnosis, condition, prognosis, or other  
814 determinative characteristic of nursing care, and whether  
815 acceptance of a patient assignment would expose the patient to  
816 the risk of harm.

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

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

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

828 2. The assignment would violate subsection (3), subsection  
829 (4), or this subsection; or

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

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

836 1. The assigned task would violate a provision of chapter  
837 464 or the rules adopted under that chapter;

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

840 3. The direct care registered nurse is not prepared by  
841 education, training, or experience to fulfill the assigned task

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842 without compromising the safety of a patient or jeopardizing the  
843 license of the direct care registered nurse.

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

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

855 a. In the best interest of the patient;

856 b. Initiated by a person legally authorized to issue the  
857 order; or

858 c. Issued in accordance with applicable law and rules  
859 governing nursing care.

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

867 3. If, upon clarification, the direct care registered nurse  
868 determines that the criteria for implementation of an order have  
869 not been satisfied, the nurse may refuse implementation on the  
870 basis that the order is not in the best interest of the patient.

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871 Seeking clarification of an order or refusing an order as  
872 described in this section is an exercise of the direct care  
873 registered nurse's duty and right of patient advocacy.

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

881 (6) FREE SPEECH; PATIENT PROTECTION.-

882 (a) A health care facility may not:

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

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

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

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900       1. Reinstatement.

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

902       3. Attorney fees.

903       4. Court costs.

904       5. Other damages.

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

909       1. Receive and investigate the complaint;

910       2. Determine whether a violation of this act as alleged in  
911 the complaint has occurred; and

912       3. If such a violation has occurred, issue an order that  
913 the complaining nurse or individual not suffer any retaliation  
914 described in paragraph (a).

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

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

924       (e)1. A health care facility may not discriminate or  
925 retaliate in any manner against any patient, employee, or  
926 contract employee of the facility, or any other individual, on  
927 the basis that such individual, in good faith, individually or  
928 in conjunction with another person or persons, has presented a



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929 grievance or complaint; initiated or cooperated in an  
930 investigation or proceeding by a governmental entity, regulatory  
931 agency, or private accreditation body; made a civil claim or  
932 demand; or filed an action relating to the care, services, or  
933 conditions of the health care facility or of any affiliated or  
934 related facilities.

935 2. For purposes of this paragraph, an individual is deemed  
936 to be acting in good faith if the individual reasonably  
937 believes:

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

939 b. A violation of this act has occurred or may occur.

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

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

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

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

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

956 4. A health care facility, or an individual representing a  
957 health care facility, may not in any way interfere with the

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958 rights of nurses to organize, bargain collectively, and engage  
959 in concerted activity under chapter 7 of the National Labor  
960 Relations Act, 29 U.S.C. s. 157.

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

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

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

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

970 (7) ENFORCEMENT.—

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

973 1. Against a health care facility found to have violated a  
974 provision of this act, a civil penalty of up to \$25,000 for each  
975 violation, except that the agency shall impose a civil penalty  
976 of at least \$25,000 for each violation if the agency determines  
977 that the health care facility has a pattern of practice of such  
978 violation.

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

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

986 Section 3. This act shall take effect July 1, 2015.