
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 450 Session of 2019

INTRODUCED BY COLLETT, HUGHES, SANTARSIERO, FARNESE, FONTANA, COSTA, YUDICHAK, BREWSTER, MUTH, TARTAGLIONE, LEACH, HAYWOOD, BLAKE, KEARNEY, SABATINA, STREET AND L. WILLIAMS, MARCH 21, 2019

REFERRED TO HEALTH AND HUMAN SERVICES, MARCH 21, 2019

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
2 act relating to health care; prescribing the powers and
3 duties of the Department of Health; establishing and
4 providing the powers and duties of the State Health
5 Coordinating Council, health systems agencies and Health Care
6 Policy Board in the Department of Health, and State Health
7 Facility Hearing Board in the Department of Justice;
8 providing for certification of need of health care providers
9 and prescribing penalties," providing for hospital patient
10 protection.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
14 as the Health Care Facilities Act, is amended by adding a
15 chapter to read:

16 CHAPTER 8-A

17 HOSPITAL PATIENT PROTECTION

18 Section 831-A. Scope of chapter.

19 This chapter provides for hospital patient protection.

20 Section 832-A. Purpose.

21 The General Assembly finds that:

1 (1) Health care services are becoming more complex, and
2 it is increasingly difficult for patients to access
3 integrated services.

4 (2) Competent, safe, therapeutic and effective patient
5 care is jeopardized because of staffing changes implemented
6 in response to market-driven managed care.

7 (3) To ensure effective protection of patients in acute
8 care settings, it is essential that qualified direct care
9 registered nurses be accessible and available to meet the
10 individual needs of patients at all times.

11 (4) To ensure the health and welfare of Pennsylvania
12 citizens, mandatory hospital direct care professional nursing
13 practice standards and professional practice protections must
14 be established to assure that hospital nursing care is
15 provided in the exclusive interests of patients.

16 (5) Direct care registered nurses have a fiduciary duty
17 to assigned patients and necessary duty and right of patient
18 advocacy and collective patient advocacy to satisfy
19 professional fiduciary obligations.

20 (6) The basic principles of staffing in hospital
21 settings should be based on the individual patient's care
22 needs, the severity of the condition, services needed and the
23 complexity surrounding those services.

24 (7) Current unsafe hospital direct care registered nurse
25 staffing practices have resulted in adverse patient outcome.

26 (8) Mandating adoption of uniform, minimum, numerical
27 and specific registered nurse-to-patient staffing ratios by
28 licensed hospital facilities is necessary for competent,
29 safe, therapeutic and effective professional nursing care and
30 for retention and recruitment of qualified direct care

1 registered nurses.

2 (9) Direct care registered nurses must be able to
3 advocate for their patients without fear of retaliation from
4 their employer.

5 (10) Whistleblower protections that encourage registered
6 nurses and patients to notify government and private
7 accreditation entities of suspected unsafe patient
8 conditions, including protection against retaliation for
9 refusing unsafe patient care assignments by competent
10 registered nurse staff, will greatly enhance the health,
11 welfare and safety of patients.

12 Section 833-A. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meaning given to them in this section unless the
15 context clearly indicates otherwise:

16 "Acuity-based patient classification system" or "system." A
17 standardized set of criteria based on scientific data that acts
18 as a measurement instrument used to predict registered nursing
19 care requirements for individual patients based on:

20 (1) The severity of patient illness.

21 (2) The need for specialized equipment and technology.

22 (3) The intensity of required nursing interventions.

23 (4) The complexity of clinical nursing judgment required
24 to design, implement and evaluate the patient's nursing care
25 plan consistent with professional standards.

26 (5) The ability for self-care, including motor, sensory
27 and cognitive deficits.

28 (6) The need for advocacy intervention.

29 (7) The licensure of the personnel required for care.

30 (8) The patient care delivery system.

1 (9) The unit's geographic layout.

2 (10) Generally accepted standards of nursing practice,
3 as well as elements reflective of the unique nature of the
4 acute care hospital's patient population.

5 The system determines the additional number of direct care
6 registered nurses and other licensed and unlicensed nursing
7 staff the hospital must assign, based on the independent
8 professional judgment of the direct care registered nurse, to
9 meet the individual patient needs at all times.

10 "Ancillary staff." Personnel employed by or contracted to
11 work at a facility that have an effect upon the delivery of
12 quality care to patients, including, but not limited to,
13 licensed practical nurses, unlicensed assistive personnel,
14 service, maintenance, clerical, professional and technical
15 workers and all other health care workers.

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

19 "Clinical judgment." The application of a direct care
20 registered nurse's knowledge, skill, expertise and experience in
21 making independent decisions about patient care.

22 "Clinical supervision." The assignment and direction of
23 patient care tasks required in the implementation of nursing
24 care for a patient to other licensed nursing staff or to
25 unlicensed staff by a direct care registered nurse in the
26 exclusive interests of the patient.

27 "Competence." The current documented, demonstrated and
28 validated ability of a direct care registered nurse to act and
29 integrate the knowledge, skills, abilities and independent
30 professional judgment that underpin safe, therapeutic and

1 effective patient care and which ability is based on the
2 satisfactory performance of:

3 (1) The statutorily recognized duties and
4 responsibilities of the registered nurses as provided under
5 the laws of this Commonwealth.

6 (2) The standards required under this chapter that are
7 specific to each hospital unit.

8 "Critical access hospital." A health facility designated
9 under a Medicare rural hospital flexibility program established
10 by the Commonwealth and as defined in section 1861(mm) of the
11 Social Security Act (49 Stat. 620, 42 U.S.C. § 1395x(mm)).

12 "Critical care unit" or "intensive care unit." A nursing
13 unit of an acute care hospital that is established to safeguard
14 and protect patients whose severity of medical conditions
15 require continuous monitoring and complex interventions by
16 direct care registered nurses and whose restorative measures
17 require complex monitoring, intensive intricate assessment,
18 evaluation, specialized rapid intervention and the education and
19 teaching of the patient, the patient's family or other
20 representatives by a competent and experienced direct care
21 registered nurse. The term includes an intensive care unit, a
22 burn center, a coronary care unit or an acute respiratory unit.

23 "Direct care registered nurse" or "direct care professional
24 nurse" or "direct care nurse." A registered nurse who:

25 (1) Is currently licensed by the State Board of Nursing
26 to engage in professional nursing with documented clinical
27 competence as defined in the act of May 22, 1951 (P.L.317,
28 No.69), known as The Professional Nursing Law.

29 (2) Has accepted a direct, hands-on patient care
30 assignment to implement medical and nursing regimens and

1 provide related clinical supervision of patient care while
2 exercising independent professional judgment at all times in
3 the interests of a patient.

4 "Hospital." An entity located in this Commonwealth that is
5 licensed as a hospital under this act. The term includes a
6 critical access and long-term acute care hospital.

7 "Hospital unit" or "clinical patient care area." An
8 intensive care or critical care unit, a burn unit, a labor and
9 delivery room, antepartum and postpartum, a newborn nursery, a
10 postanesthesia service area, an emergency department, an
11 operating room, a pediatric unit, a step-down or intermediate
12 care unit, a specialty care unit, a telemetry unit, a general
13 medical/surgical care unit, a psychiatric unit, a rehabilitation
14 unit or a skilled nursing facility unit.

15 "Long-term acute care hospital." A hospital or health care
16 facility that specializes in providing acute care to medically
17 complex patients with an anticipated length of stay of more than
18 25 days. The term includes a free-standing and a hospital-
19 within-hospital model of a long-term acute care facility.

20 "Medical/surgical unit." A unit that:

21 (1) Is established to safeguard and protect patients
22 whose severity of illness, including all comorbidities,
23 restorative measures and level of nursing intensity requires
24 continuous care through direct observation by a direct care
25 registered nurse, monitoring, multiple assessments,
26 specialized interventions, evaluations and the education or
27 teaching of a patient's family or other representatives by a
28 competent and experienced direct care registered nurse.

29 (2) May include patients requiring less than intensive
30 care or step-down care and patients receiving 24-hour

1 inpatient general medical care, postsurgical care or both.

2 (3) May include mixed patient populations of diverse
3 diagnoses and diverse age groups, excluding pediatric
4 patients.

5 "Patient assessment." The direct care utilization by a
6 registered nurse of critical thinking, which is the
7 intellectually disciplined process of actively and skillfully
8 interpreting, applying, analyzing, synthesizing and evaluating
9 data obtained through the registered nurse's direct care, direct
10 observation and communication with others.

11 "Professional judgment." The educated, informed and
12 experienced process that a direct care registered nurse
13 exercises in forming an opinion and reaching a clinical
14 decision, in a patient's best interest, based upon analysis of
15 data, information and scientific evidence.

16 "Rehabilitation unit." A functional clinical unit for the
17 provision of those rehabilitation services that restore an ill
18 or injured patient to the highest level of self-sufficiency or
19 gainful employment of which the patient is capable in the
20 shortest possible time, compatible with the patient's physical,
21 intellectual and emotional or psychological capabilities and in
22 accordance with planned goals and objectives.

23 "Skilled nursing facility." A functional clinical unit that:

24 (1) Provides skilled nursing care and supportive care to
25 patients whose primary need is for the availability of
26 skilled nursing care on a long-term basis and who are
27 admitted after at least a 48-hour period of continuous
28 inpatient care.

29 (2) Provides at least the following:

30 (i) medical;

- 1 (ii) nursing;
- 2 (iii) dietary;
- 3 (iv) pharmaceutical services; and
- 4 (v) an activity program.

5 "Specialty care unit." A unit that:

6 (1) Is established to safeguard and protect patients
7 whose severity of illness, including all comorbidities,
8 restorative measures and level of nursing intensity requires
9 continuous care through direct observation by a direct care
10 registered nurse, monitoring, multiple assessments,
11 specialized interventions, evaluations and the education and
12 teaching of a patient's family or other representatives by a
13 competent and experienced direct care registered nurse.

14 (2) Provides intensity of care for a specific medical
15 condition or a specific patient population.

16 (3) Is more comprehensive for the specific condition or
17 disease process than that which is required on a
18 medical/surgical unit and is not otherwise covered by the
19 definitions in this section.

20 "Step-down unit." A unit established:

21 (1) To safeguard and protect patients whose severity of
22 illness, including all comorbidities, restorative measures
23 and level of nursing intensity requires intermediate
24 intensive care through direct observation by the direct care
25 registered nurse, monitoring, multiple assessments,
26 specialized interventions, evaluations and the education and
27 teaching of the patient's family or other representatives by
28 a competent and experienced direct care registered nurse.

29 (2) To provide care to patients with moderate or
30 potentially severe physiologic instability requiring

1 technical support but not necessarily artificial life
2 support.
3 "Technical support." Specialized equipment and direct care
4 registered nurses providing for invasive monitoring, telemetry
5 and mechanical ventilation for the immediate amelioration or
6 remediation of severe pathology for those patients requiring
7 less care than intensive care, but more care than that which is
8 required from medical/surgical care.

9 "Telemetry unit." A unit that:

10 (1) Is established to safeguard and protect patients
11 whose severity of illness, including all comorbidities,
12 restorative measures and level of nursing intensity requires
13 intermediate intensive care through direct observation by a
14 direct registered nurse, monitoring, multiple assessments,
15 specialized interventions, evaluations and the education and
16 teaching of a patient's family or other representatives by a
17 competent and experienced direct care registered nurse.

18 (2) Is designated for the electronic monitoring,
19 recording, retrieval and display of cardiac electrical
20 signals.

21 Section 834-A. Hospital nursing practice standard.

22 (a) Professional obligation and right.--By virtue of their
23 professional license and ethical obligations, all registered
24 nurses have a duty and right to act and provide care in the
25 exclusive interests of a patient and to act as the patient's
26 advocate, as circumstances require, in accordance with the
27 provisions described in section 836-A.

28 (b) Acceptance of patient care assignments.--

29 (1) A direct care registered nurse shall provide
30 competent, safe, therapeutic and effective nursing care to

1 assigned patients.

2 (2) As a condition of licensure, a health care facility
3 shall adopt, disseminate to direct care nurses and comply
4 with a written policy that details the circumstances under
5 which a direct care nurse may refuse a work assignment.

6 (3) At a minimum, the policy shall permit a direct care
7 nurse to refuse a patient assignment for which:

8 (i) the nurse does not have the necessary knowledge,
9 judgment, skills and ability to provide the required care
10 without compromising or jeopardizing the patient's
11 safety, the nurse's ability to meet foreseeable patient
12 needs or the nurse's license; and

13 (ii) the assignment otherwise would violate
14 requirements under this chapter.

15 (4) At a minimum, the policy shall permit a direct care
16 nurse to assess an order initiated by a physician or legally
17 authorized health care professional before implementation to
18 determine if the order is:

19 (i) in the best interests of the patient;

20 (ii) initiated by a person legally authorized to
21 issue the order; and

22 (iii) in accordance with applicable law and
23 regulation governing nursing care.

24 (5) At a minimum, the work assignment policy shall
25 contain procedures for the following:

26 (i) Reasonable requirements for prior notice to the
27 nurse's supervisor regarding the nurse's request and
28 supporting reasons for being relieved of the assignment,
29 continued duty or implementation of an order.

30 (ii) Where feasible, an opportunity for the

1 supervisor to review the specific conditions supporting
2 the nurse's request and to decide whether to:

3 (A) remedy the conditions;

4 (B) to relieve the nurse of the assignment or
5 order; or

6 (C) deny the nurse's request to be relieved of
7 the assignment, continued duty or implementation of
8 an order.

9 (iii) A process that permits the nurse to exercise
10 the right to refuse the assignment, continued on-duty
11 status or implementation of an order when the supervisor
12 denies the request to be relieved if:

13 (A) The supervisor rejects the request without
14 proposing a remedy or the proposed remedy would be
15 inadequate or untimely.

16 (B) The complaint and investigation process with
17 a regulatory agency would be untimely to address
18 concern.

19 (C) The employee, in good faith, believes that
20 the assignment or implementation of an order meets
21 conditions justifying refusal.

22 (iv) A nurse who refuses an assignment or
23 implementation of an order under a work assignment policy
24 established in this section shall not be deemed, by
25 reason thereof, to have engaged in negligent or
26 incompetent action, patient abandonment or otherwise to
27 have violated applicable nursing law.

28 Section 835-A. Professional duty and right of patient advocacy.

29 A registered nurse has the professional obligation, and
30 therefore the right, to act as a patient's advocate as

1 circumstances require by:

2 (1) initiating action to improve health care or to
3 change decisions or activities which in the professional
4 judgment of the direct care registered nurse are against the
5 interests or wishes of the patient; or

6 (2) giving the patient the opportunity to make informed
7 decisions about health care before it is provided.

8 Section 836-A. Free speech.

9 (a) Prohibition against discharge or retaliation for
10 whistleblowing.--A hospital or other health care facility may
11 not discharge from duty or otherwise retaliate against a direct
12 care registered nurse or other health care professional
13 responsible for patient care who reports unsafe practices or
14 violations of policy, regulation, rule or law.

15 (b) Rights guaranteed as essential to effective patient
16 advocacy.--

17 (1) A direct care registered nurse or other health care
18 professional or worker responsible for patient care in a
19 hospital shall enjoy the right of free speech and shall be
20 protected in the exercise of that right as provided in this
21 section, both during working hours and during off-duty hours.

22 (2) The right of free speech protected by this section
23 is a necessary incident of the professional nurse duty of
24 patient advocacy and is essential to protecting the health
25 and safety of hospital patients and of the people of this
26 Commonwealth.

27 (c) Protected speech.--

28 (1) The free speech protected by this section includes,
29 without limitation, any type of spoken, gestured, written,
30 printed or electronically communicated expression concerning

1 any matter related to or affecting competent, safe,
2 therapeutic and effective nursing care by direct care
3 registered nurses or other health care professionals and
4 workers at the hospital facility, at facilities within large
5 health delivery systems or corporate chains that include the
6 hospital, or more generally within the health care industry.

7 (2) The content of speech protected by this section
8 includes, without limitation, the facts and circumstances of
9 particular events, patient care practices, institutional
10 actions, policies or conditions that may facilitate or impede
11 competent, safe, therapeutic and effective nursing practice
12 and patient care, adverse patient outcomes or incidents,
13 sentinel and reportable events and arguments in support of or
14 against hospital policies or practices relating to the
15 delivery of nursing care.

16 (3) Protected speech under this section includes the
17 reporting, internally, externally or publicly, of actions,
18 conduct, events, practices or other matters that are believed
19 to constitute:

20 (i) a violation of Federal, State or local laws or
21 regulations;

22 (ii) a breach of applicable codes of professional
23 ethics, including the professional and ethical
24 obligations of direct care registered nurses;

25 (iii) matters which, in the independent judgment of
26 the reporting direct care registered nurse, are
27 appropriate or required for disclosure in furtherance and
28 support of the nurse's exercise of patient advocacy
29 duties to improve health care or change decisions or
30 activities which, in the professional judgment of the

1 direct care registered nurse, are against the interests
2 or wishes of the patient or to ensure that the patient is
3 afforded a meaningful opportunity to make informed
4 decisions about health care before it is provided; or
5 (iv) concern matters as described in subparagraph
6 (iii) made in aid and support of the exercise of patient
7 advocacy duties of direct care registered nurse
8 colleagues.

9 (d) Nondisclosure of confidential information.--Nothing in
10 this section shall be construed to authorize disclosure of
11 private and confidential patient information except where the
12 disclosure is:

13 (1) required by law;

14 (2) compelled by proper legal process;

15 (3) consented to by the patient; or

16 (4) provided in confidence to regulatory or
17 accreditation agencies or other government entities for
18 investigatory purposes or under formal or informal complaints
19 of unlawful or improper practices for purposes of achieving
20 corrective and remedial action.

21 (e) Duty of patient advocacy.--Engaging in free speech
22 activity as described in this section constitutes an exercise of
23 the direct care registered nurse's duty and right of patient
24 advocacy. The subject matter of free speech activity as
25 described in this section is presumed to be a matter of public
26 concern, and the disclosures protected under this section are
27 presumed to be in the public interest.

28 Section 837-A. Protected rights.

29 (a) General rule.--A person shall have the right to:

30 (1) oppose policies, practices or actions of a hospital

1 or other medical facility that are alleged to violate, breach
2 or fail to comply with any provision of this chapter; and
3 (2) cooperate, provide evidence, testify or otherwise
4 support or participate in any investigation or complaint
5 proceeding under sections 845-A and 846-A.

6 (b) Right to file complaint.--

7 (1) A patient of a hospital or other medical facility
8 aggrieved by the hospital's or facility's interference with
9 the full and free exercise of patient advocacy duties by a
10 direct care registered nurse shall have the right to make or
11 file a complaint, cooperate, provide evidence, testify or
12 otherwise support or participate in any investigation or
13 complaint proceeding under sections 845-A and 846-A.

14 (2) A direct care registered nurse of a hospital or
15 other medical facility aggrieved by the hospital's or
16 facility's interference with the full and free exercise of
17 patient advocacy duties shall have the right to make or file
18 a complaint, cooperate, provide evidence, testify or
19 otherwise support or participate in any investigation or
20 complaint proceeding under sections 845-A and 846-A.

21 Section 838-A. Interference with rights and duties of free
22 speech and patient advocacy prohibited.

23 No hospital or other medical facility employer or its agents
24 may:

25 (1) interfere with, restrain, coerce, intimidate or deny
26 the exercise of or the attempt to exercise, by a person of a
27 right provided or protected under this chapter; or

28 (2) discriminate or retaliate against a person for
29 opposing a policy, practice or action of the hospital or
30 other medical facility which is alleged to violate, breach or

1 fail to comply with any provisions of this chapter.

2 Section 839-A. No retaliation or discrimination for protected
3 actions.

4 No hospital or other medical facility employer may
5 discriminate or retaliate in any manner against a patient,
6 employee or contract employee of the hospital or other medical
7 facility or any other person because that person has:

8 (1) presented a grievance or complaint or has initiated
9 or cooperated in an investigation or proceeding of a
10 governmental entity, regulatory agency or private
11 accreditation body; or

12 (2) made a civil claim or demand or filed an action
13 relating to the care, services or conditions of the hospital
14 or of any affiliated or related facilities.

15 Section 840-A. Direct care registered nurse-to-patient staffing
16 ratios.

17 (a) General requirements.--A hospital shall provide minimum
18 staffing by direct care registered nurses in accordance with the
19 general requirements of this subsection and the clinical unit or
20 clinical patient care area direct care registered nurse-to-
21 patient ratios specified in subsection (b). Staffing for patient
22 care tasks not requiring a direct care registered nurse is not
23 included within these ratios and shall be determined under an
24 acuity-based patient classification system, this section and
25 section 841-A. The requirements are as follows:

26 (1) No hospital may assign a direct care registered
27 nurse to a nursing unit or clinical area unless that hospital
28 and the direct care registered nurse determine that the
29 direct care registered nurse has demonstrated and validated
30 current competence in providing care in that area and has

1 also received orientation to that hospital's clinical area
2 sufficient to provide competent, safe, therapeutic and
3 effective care to patients in that area. The policies and
4 procedures of the hospital shall contain the hospital's
5 criteria for making this determination.

6 (2) (i) Direct care registered nurse-to-patient ratios
7 represent the maximum number of patients that shall be
8 assigned to one direct care registered nurse at all
9 times.

10 (ii) For purposes of this paragraph, "assigned"
11 means the direct care registered nurse has responsibility
12 for the provision of care to a particular patient within
13 the direct care registered nurse's validated competency.

14 (3) There shall be no averaging of the number of
15 patients and the total number of direct care registered
16 nurses on the unit during any one shift nor over any period
17 of time.

18 (4) Only direct care registered nurses providing direct
19 patient care shall be included in the ratios. Nurse
20 administrators, nurse supervisors, nurse managers, charge
21 nurses and case managers may not be included in the
22 calculation of the direct care registered nurse-to-patient
23 ratio. Only direct care registered nurses shall relieve other
24 direct care registered nurses during breaks, meals and other
25 routine, expected absences from the unit.

26 (5) Only direct care registered nurses shall be assigned
27 to intensive care newborn nursery service units, which
28 specifically require one direct care registered nurse to two
29 or fewer infants at all times.

30 (6) In the emergency department, only direct care

1 registered nurses shall be assigned to triage patients, and
2 only direct care registered nurses shall be assigned to
3 critical trauma patients.

4 (b) Unit or patient care areas.--The minimum staffing ratios
5 for general, acute, critical access and specialty hospitals are
6 established in this subsection for direct care registered nurses
7 as follows:

8 (1) The direct care registered nurse-to-patient ratio in
9 an intensive care unit shall be 1:2 or fewer at all times.

10 (2) The direct care registered nurse-to-patient ratio
11 for a critical care unit shall be 1:2 or fewer at all times.

12 (3) The direct care registered nurse-to-patient ratio
13 for a neonatal intensive care unit shall be 1:2 or fewer at
14 all times.

15 (4) The direct care registered nurse-to-patient ratio
16 for a burn unit shall be 1:2 or fewer at all times.

17 (5) The direct care registered nurse-to-patient ratio
18 for a step-down, intermediate care unit shall be 1:3 or fewer
19 at all times.

20 (6) An operating room shall have at least one direct
21 care registered nurse assigned to the duties of the
22 circulating registered nurse and a minimum of one additional
23 person as a scrub assistant for each patient-occupied
24 operating room.

25 (7) The direct care registered nurse-to-patient ratio in
26 the postanesthesia recovery unit of an anesthesia service
27 shall be 1:2 or fewer at all times, regardless of the type of
28 anesthesia the patient received.

29 (8) The direct care registered nurse-to-patient ratio
30 for patients receiving conscious sedation shall be 1:1 at all

1 times.

2 (9) (i) The direct care registered nurse-to-patient
3 ratio for an emergency department shall be 1:4 or fewer
4 at all times.

5 (ii) The direct care registered nurse-to-patient
6 ratio for critical care patients in the emergency
7 department shall be 1:2 or fewer at all times.

8 (iii) Only direct care registered nurses shall be
9 assigned to critical trauma patients in the emergency
10 department, and a minimum direct care registered nurse-
11 to-critical trauma patient ratio of 1:1 shall be
12 maintained at all times.

13 (iv) In an emergency department, triage, radio or
14 specialty/flight, registered nurses do not count in the
15 calculation of direct care registered nurse-to-patient
16 ratio.

17 (10) (i) The direct care registered nurse-to-patient
18 ratio in the labor and delivery suite of prenatal
19 services shall be 1:1 at all times for active labor
20 patients and patients with medical or obstetrical
21 complications.

22 (ii) The direct care registered nurse-to-patient
23 ratio shall be 1:1 at all times for initiating epidural
24 anesthesia and circulation for cesarean delivery.

25 (iii) The direct care registered nurse-to-patient
26 ratio for patients in immediate postpartum shall be 1:2
27 or fewer at all times.

28 (11) (i) The direct care registered nurse-to-patient
29 ratio for antepartum patients who are not in active labor
30 shall be 1:3 or fewer at all times.

1 (ii) The direct care registered nurse-to-patient
2 ratio for patients in a postpartum area of the prenatal
3 service shall be 1:3 mother-baby couplets or fewer at all
4 times.

5 (iii) In the event of cesarean delivery, the total
6 number of mothers plus infants assigned to a single
7 direct care registered nurse shall never exceed four.

8 (iv) In the event of multiple births, the total
9 number of mothers plus infants assigned to a single
10 direct care registered nurse shall not exceed six.

11 (v) For postpartum areas in which the direct care
12 registered nurse's assignment consists of mothers only,
13 the direct care registered nurse-to-patient ratio shall
14 be 1:4 or fewer at all times.

15 (vi) The direct care registered nurse-to-patient
16 ratio for postpartum women or postsurgical gynecological
17 patients shall be 1:4 or fewer at all times.

18 (vii) Well baby nursery direct care registered
19 nurse-to-patient ratio shall be 1:5 or fewer at all
20 times.

21 (viii) The direct care registered nurse-to-patient
22 ratio for unstable newborns and those in the
23 resuscitation period as assessed by the direct care
24 registered nurse shall be 1:1 at all times.

25 (ix) The direct care registered nurse-to-patient
26 ratio for recently born infants shall be 1:4 or fewer at
27 all times.

28 (12) The direct care registered nurse-to-patient ratio
29 for pediatrics shall be 1:3 or fewer at all times.

30 (13) The direct care registered nurse-to-patient ratio

1 in telemetry shall be 1:3 or fewer at all times.

2 (14) (i) The direct care registered nurse-to-patient
3 ratio in medical/surgical shall be 1:4 or fewer at all
4 times.

5 (ii) The direct care registered nurse-to-patient
6 ratios for presurgical and admissions units or ambulatory
7 surgical units shall be 1:4 or fewer at all times.

8 (15) The direct care registered nurse-to-patient ratio
9 in other specialty units shall be 1:4 or fewer at all times.

10 (16) The direct care registered nurse-to-patient ratio
11 in psychiatric units shall be 1:4 or fewer at all times.

12 (17) The direct care registered nurse-to-patient ratio
13 in a rehabilitation unit or a skilled nursing facility shall
14 be 1:5 or fewer at all times.

15 (c) Additional conditions.--

16 (1) Identifying a unit or clinical patient care area by
17 a name or term other than those defined in section 833-A does
18 not affect the requirement to staff at the direct care
19 registered nurse-to-patient ratios identified for the level
20 of intensity or type of care described in section 833-A and
21 this section.

22 (2) (i) Patients shall only be cared for on units or
23 clinical patient care areas where the level of intensity,
24 type of care and direct care registered nurse-to-patients
25 ratios meet the individual requirements and needs of each
26 patient.

27 (ii) The use of patient acuity-adjustable units or
28 clinical patient care areas is prohibited.

29 (3) Video cameras or monitors or any form of electronic
30 visualization of a patient shall not be deemed a substitute

1 for the direct observation required for patient assessment by
2 the direct care registered nurse and for patient protection
3 required by an attendant or sitter.

4 Section 841-A. Hospital unit staffing plans.

5 (a) Acuity-based patient classification system.--

6 (1) In addition to the direct care registered nurse
7 ratio requirements of subsection (b), a hospital shall assign
8 additional nursing staff, such as licensed practical nurses,
9 certified nursing assistants and ancillary staff, through the
10 implementation of a valid acuity-based patient classification
11 system for determining nursing care needs of individual
12 patients that reflects the assessment made by the assigned
13 direct care registered nurse of patient nursing care
14 requirements and provides for shift-by-shift staffing based
15 on those requirements.

16 (2) The ratios specified in subsection (b) shall
17 constitute the minimum number of registered nurses who shall
18 be assigned to direct patient care. Additional registered
19 nursing staff in excess of the prescribed ratios shall be
20 assigned to direct patient care in accordance with the
21 hospital's implementation of a valid system for determining
22 nursing care requirements.

23 (3) Based on the direct care registered nurse assessment
24 as reflected in the implementation of a valid system and
25 independent direct care registered nurse determination of
26 patient care needs, additional licensed and nonlicensed staff
27 shall be assigned.

28 (b) Development of written staffing plan.--

29 (1) A written staffing plan shall be developed by the
30 chief nursing officer or a designee, based on individual

1 patient care needs determined by the system. The staffing
2 plan shall be developed and implemented for each patient care
3 unit and shall specify individual patient care requirements
4 and the staffing levels for direct care registered nurses and
5 other licensed and unlicensed personnel. The plan shall
6 ensure that the facility will implement such limits without
7 diminishing the staffing levels of its ancillary staff.

8 (2) In no case may the staffing level for direct care
9 registered nurses on any shifts fall below the requirements
10 of this subsection.

11 (3) The plan shall include the following:

12 (i) Staffing requirements as determined by the
13 system for each unit, documented and posted on the unit
14 for public view on a day-to-day, shift-by-shift basis.

15 (ii) The actual staff and staff mix provided,
16 documented and posted on the unit for public view on a
17 day-to-day, shift-by-shift basis.

18 (iii) The variance between required and actual
19 staffing patterns, documented and posted on the unit for
20 public view on a day-to-day, shift-by-shift basis.

21 (c) Recordkeeping.--In addition to the documentation
22 required in subsection (b), the hospital shall keep a record of
23 the actual direct care registered nurse, licensed practical
24 nurse and certified nursing assistant assignments to individual
25 patients by licensure category, documented on a day-to-day,
26 shift-by-shift basis. The hospital shall retain:

27 (1) The staffing plan required in subsection (b) for a
28 period of two years.

29 (2) The record of the actual direct care registered
30 nurse, licensed practical nurse and certified nursing

1 assistant assignments by licensure and nonlicensure category.

2 (d) Review committee to conduct annual review of system.--

3 The reliability of the system for validating staffing

4 requirements shall be reviewed at least annually by a committee

5 to determine whether the system accurately measures individual

6 patient care needs and completely predicts direct care

7 registered nurse, licensed practical nurse and certified nursing

8 assistant staffing requirements based exclusively on individual

9 patient needs.

10 (e) Review committee membership.--

11 (1) At least half of the members of the review committee

12 shall be unit-specific, competent direct care registered

13 nurses who provide direct patient care.

14 (2) The members of the committee shall be appointed by

15 the chief nurse officer, except where direct care registered

16 nurses are represented for collective bargaining purposes,

17 all direct care registered nurses on the committee shall be

18 appointed by the authorized collective bargaining agent.

19 (3) In case of a dispute, the direct care registered

20 nurse assessment shall prevail.

21 (f) Time period for adjustments.--If the review committee

22 determines that adjustments are necessary in order to assure

23 accuracy in measuring patient care needs, the adjustments shall

24 be implemented within 30 days of that determination.

25 (g) Process for staff input.--A hospital shall develop and

26 document a process by which all interested staff may provide

27 input about the system's required revisions and the overall

28 staffing plan.

29 (h) Limitation on administrator of nursing services.--The

30 administrator of nursing services may not be designated to serve

1 as a charge nurse or to have direct patient care responsibility.

2 (i) Minimum requirement for each shift.--Each patient care
3 unit shall have at least one direct care registered nurse
4 assigned, present and responsible for the patient care in the
5 unit on each shift.

6 (j) Temporary nursing agencies.--

7 (1) Nursing personnel from temporary nursing agencies
8 may not be responsible for patient care on any clinical unit
9 without having demonstrated and validated clinical competency
10 on the assigned unit.

11 (2) A hospital that utilizes temporary nursing agencies
12 shall have and adhere to a written procedure to orient and
13 evaluate personnel from these sources. In order to ensure
14 clinical competence of temporary agency personnel, the
15 procedures shall require that personnel from temporary
16 nursing agencies be evaluated as often, or more often, than
17 staff employed directly by the hospital.

18 (k) Planning for routine fluctuations.--

19 (1) A hospital shall plan for routine fluctuations, such
20 as admissions, discharges and transfers in patient census.

21 (2) If a health care emergency causes a change in the
22 number of patients on a unit, the hospital shall demonstrate
23 that immediate and diligent efforts were made to maintain
24 required staffing levels.

25 (3) For purposes of this subsection, "health care
26 emergency" means an emergency declared by the Federal
27 Government or the head of a State, local, county or municipal
28 government.

29 Section 842-A. Minimum requirements for hospital systems.

30 (a) General rule.--A hospital shall:

1 (1) Adopt an acuity-based patient classification system,
2 including a written nursing care staffing plan for each
3 patient care unit.

4 (2) Implement, evaluate and modify the plan as necessary
5 and appropriate under the provisions of this section.

6 (3) Provide direct care nurse staffing based on
7 individual patient need determined in accordance with the
8 requirements of this section.

9 (4) Use the system to determine additional direct care
10 registered nurse staffing above the minimum staffing ratios
11 required by subsection (b) and any staffing by licensed
12 practical nurses or unlicensed nursing personnel.

13 (b) Required elements.--The system used by a hospital for
14 determining patient nursing care needs shall include, but not be
15 limited to, the following elements:

16 (1) A method to predict nursing care requirements of
17 individual patient assessments and as determined by direct
18 care registered nurse assessments of individual patients.

19 (2) A method that provides for sufficient direct care
20 registered nursing staffing to ensure that all of the
21 elements in this subsection are performed in the planning and
22 delivery of care for each patient:

23 (i) assessment;

24 (ii) nursing diagnosis;

25 (iii) planning; and

26 (iv) intervention.

27 (3) An established method by which the amount of nursing
28 care needed for each category of patient is validated.

29 (4) A method for validation of the reliability of the
30 system.

1 (c) Transparency of system.--

2 (1) A system shall be fully transparent in all respects,
3 including:

4 (i) Disclosure of detailed documentation of the
5 methodology used by the system to predict nursing
6 staffing.

7 (ii) Identification of each factor, assumption and
8 value used in applying the methodology.

9 (iii) An explanation of the scientific and empirical
10 basis for each assumption and value and certification by
11 a knowledgeable and authorized representative of the
12 hospital that the disclosures regarding methods used for
13 testing and validating the accuracy and reliability of
14 the system are true and complete.

15 (2) A hospital shall include in the documentation
16 required by this section an evaluation and a report on at
17 least an annual basis, which evaluation and report shall be
18 conducted and prepared by a committee consisting exclusively
19 of direct care registered nurses who have provided direct
20 patient care in the units covered by the system. Where direct
21 care registered nurses are represented for collective
22 bargaining purposes, all direct care registered nurses on the
23 committee shall be appointed by the authorized collective
24 bargaining agent.

25 (d) Submission to Department of Health.--

26 (1) The documentation required by this section shall be
27 submitted in its entirety to the Department of Health as a
28 mandatory condition of hospital licensure, with a
29 certification by the chief nurse officer for the hospital
30 that it completely and accurately reflects implementation of

1 a valid system used to determine nursing service staffing by
2 the hospital for every shift on every clinical unit in which
3 patients reside and receive care.

4 (2) The certification shall be executed by the chief
5 nurse officer under penalty of perjury and shall contain an
6 express acknowledgment that any false statement in the
7 certification shall constitute fraud and be subject to
8 criminal and civil prosecution and penalties under the
9 antifraud provisions applicable to false claims for
10 government funds or benefits.

11 (3) The documentation shall be available for public
12 inspection in its entirety in accordance with procedures
13 established by appropriate administrative regulation
14 consistent with the purposes of this chapter.

15 Section 843-A. Prohibited activities.

16 (a) General rule.--The following activities are prohibited:

17 (1) A hospital may not directly assign any unlicensed
18 personnel to perform registered nurse functions in lieu of
19 care delivered by a licensed registered nurse and may not
20 assign unlicensed personnel to perform registered nurse
21 functions under the clinical supervision of a direct care
22 registered nurse.

23 (2) Unlicensed personnel may not perform tasks that
24 require the clinical assessment, judgment and skill of a
25 licensed registered nurse, including, without limitation:

26 (i) Nursing activities that require nursing
27 assessment and judgment during implementation.

28 (ii) Physical, psychological and social assessments
29 that require nursing judgment, intervention, referral or
30 follow-up.

1 (iii) Formulation of a plan of nursing care and
2 evaluation of the patient's response to the care
3 provided.

4 (iv) Administration of medication, venipuncture or
5 intravenous therapy, parenteral or tube feedings,
6 invasive procedures, including inserting nasogastric
7 tubes, inserting catheters or tracheal suctioning.

8 (v) Educating patients and their families concerning
9 the patient's health care problems, including
10 postdischarge care.

11 (b) Mandatory overtime.--A hospital may not impose mandatory
12 overtime requirements to meet the staffing ratios imposed in
13 section 840-A.

14 Section 844-A. Fines and civil penalties.

15 The following fines and penalties shall apply to violations
16 of this chapter:

17 (1) A hospital found to have violated or aided and
18 abetted section 841-A, 842-A or 843-A shall be subject, in
19 addition to any other penalties that may be prescribed by
20 law, to a civil penalty of not more than \$25,000 for each
21 violation and an additional \$10,000 per nursing unit shift
22 until the violation is corrected.

23 (2) A hospital employer found to have violated or
24 interfered with any of the rights or protections provided and
25 guaranteed under sections 836-A, 837-A, 838-A, 839-A and
26 840-A shall be subject to a civil penalty of not more than
27 \$25,000 for each violation or occurrence of prohibited
28 conduct.

29 (3) A hospital management, nursing service or medical
30 personnel found to have violated or interfered with any of

1 the rights or protections provided and guaranteed under
2 sections 836-A, 837-A, 838-A, 839-A and 840-A shall be
3 subject to a civil penalty of not more than \$20,000 for each
4 violation or occurrence of prohibited conduct.

5 Section 845-A. Private right of action.

6 (a) General rule.--A health care facility that violates the
7 rights of an employee specified in sections 835-A, 836-A, 837-A,
8 838-A and 839-A may be held liable to the employee in an action
9 brought in a court of competent jurisdiction for such legal or
10 equitable relief as may be appropriate to effectuate the
11 purposes of this chapter, including, but not limited to,
12 reinstatement, promotion, lost wages and benefits and
13 compensatory and consequential damages resulting from the
14 violations together with an equal amount in liquidated damages.
15 The court in the action shall, in addition to any judgment
16 awarded to the plaintiffs, award reasonable attorney fees and
17 costs of action to be paid by the defendants. The employee's
18 right to institute a private action is not limited by any other
19 rights granted under this chapter.

20 (b) Relief for nurses.--In addition to the amount recovered
21 under subsection (a), a nurse whose employment is suspended or
22 terminated in violation of this section is entitled to:

23 (1) Reinstatement in the nurse's former position or
24 severance pay in an amount equal to three months of the
25 nurse's most recent salary.

26 (2) Compensation for wages lost during the period of
27 suspension or termination.

28 (3) An award of reasonable attorney fees and costs as
29 the prevailing party.

30 Section 846-A. Enforcement procedure.

1 (a) Period of limitations.--

2 (1) Except as otherwise provided in paragraph (2), in
3 the case of an action brought for a willful violation of the
4 applicable provisions of this chapter, the action must be
5 brought within three years of the date of the last event
6 constituting the alleged violation for which the action is
7 brought.

8 (2) An action must be brought under section 845-A no
9 later than two years after the date of the last event
10 constituting the alleged violation for which the action is
11 brought.

12 (b) Posting requirements.--A hospital and other medical
13 facility shall post the provisions of this chapter in a
14 prominent place for review by the public and the employees. The
15 posting shall have a title across the top in no less than 35
16 point, bold typeface stating the following:

17 "RIGHTS OF REGISTERED NURSES AS PATIENT ADVOCATES, EMPLOYEES
18 AND PATIENTS."

19 Section 2. This act shall take effect in 60 days.