



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0012

Introduced 1/9/2013, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
210 ILCS 85/2.5 new
225 ILCS 65/50-17 new

Creates the Hospital Patient Protection Act. Provides for minimum direct care registered nurse-to-patient staffing ratios in hospitals, and requires hospitals to have a written staffing plan. Sets forth essential functions of direct care registered nurses relating to hospital patient care. Sets forth certain rights of direct care registered nurses, including the rights to protected speech and patient advocacy. Prohibits a hospital from interfering with a nurse's exercise of those rights, and prohibits other retaliatory or discriminatory action by a hospital. Provides for monetary and equitable relief for violations of the Act, and provides for civil penalties. Requires a hospital to post certain provisions of the Act for review by the hospital's employees and patients and by the public. Amends the Hospital Licensing Act and the Nurse Practice Act to provide that in the case of a conflict between a provision of either of those Acts and a provision of the Hospital Patient Protection Act, the Hospital Patient Protection Act shall control.

LRB098 00159 CEL 30160 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 1. General

5 Section 1-1. Short title. This Act may be cited as the
6 Hospital Patient Protection Act.

7 Article 5. Definitions

8 Section 5-1. Definitions. The definitions set forth in this
9 Article apply unless the context requires otherwise.

10 Section 5-5. Acuity-based patient classification system.
11 "Acuity-based patient classification system" or "system" means
12 a standardized set of criteria based on scientific data that
13 acts as a measurement instrument and that is used to predict
14 registered nursing care requirements for individual patients
15 based on the severity of a patient's illness (including
16 co-morbidities), the need for specialized equipment and
17 technology, the intensity of required nursing interventions,
18 and the complexity of clinical nursing judgment required to
19 design, implement, and evaluate a patient's nursing care plan
20 consistent with professional standards, the ability for

1 self-care (including motor, sensory, and cognitive deficits),
2 the need for advocacy intervention, the licensure of the
3 personnel required for care, the patient care delivery system,
4 the unit's geographic layout, and generally accepted standards
5 of nursing practice, as well as elements reflective of the
6 unique nature of the acute-care hospital's patient population.
7 The system determines the additional number of direct care
8 registered nurses and other licensed and unlicensed nursing
9 staff the hospital must assign, based on the independent
10 professional judgment of the direct care registered nurse, to
11 meet the individual patient needs at all times.

12 Section 5-10. Clinical judgment. "Clinical judgment" means
13 the application of the direct care registered nurse's
14 knowledge, skill, and expertise and experience in making
15 independent decisions about patient care.

16 Section 5-15. Clinical supervision. "Clinical supervision"
17 means the assignment and direction of patient care tasks
18 required in the implementation of nursing care for a patient to
19 other licensed nursing staff or to unlicensed staff by a direct
20 care registered nurse in the exclusive interests of the
21 patient.

22 Section 5-20. Competence. "Competence" means the ability
23 of a direct care registered nurse to act and integrate the

1 knowledge, skills, abilities, and independent professional
2 judgment that underpin safe, therapeutic, and effective
3 patient care.

4 Section 5-25. Critical access hospital. "Critical access
5 hospital" means a health facility designated as such pursuant
6 to a Medicare rural hospital flexibility program as defined in
7 42 U.S.C. 1395x(mm).

8 Section 5-30. Critical care unit or intensive care unit.
9 "Critical care unit" or "intensive care unit" means a hospital
10 unit established to safeguard and protect patients whose
11 severity of illness, including all co-morbidities, requires
12 continuous monitoring and complex interventions by a direct
13 care registered nurse and whose restorative measures and level
14 of nursing intensity requires intensive care through direct
15 observation by a direct care registered nurse, complex
16 monitoring, intensive intricate assessment, specialized rapid
17 intervention, evaluation, and education or teaching of the
18 patient and his or her family or other representatives by a
19 competent and experienced direct care registered nurse. The
20 term includes an intensive care unit, a burn center, a coronary
21 care unit, or an acute respiratory unit.

22 Section 5-35. Department. "Department" means the
23 Department of Public Health.

1 Section 5-40. Direct care registered nurse. "Direct care
2 registered nurse" means a competent registered nurse who has
3 accepted a direct care, hands-on patient care assignment to
4 implement medical and nursing regimens while exercising
5 independent professional judgment at all times in the interest
6 of the patient.

7 Section 5-45. Hospital. "Hospital" means a general
8 hospital, psychiatric hospital, short-term acute-care
9 hospital, long-term acute-care hospital, or critical access
10 hospital, or any institution, place, building, or agency,
11 public or private, whether organized for profit or not, devoted
12 primarily to the maintenance and operation of facilities for
13 the diagnosis, prevention, and treatment of physical or mental
14 human illness, including convalescence and rehabilitation and
15 including care during and after pregnancy, or care of 2 or more
16 unrelated persons admitted for over night stay or longer, in
17 order to obtain medical, including nursing, care of illness,
18 disease, injury, infirmity, or deformity.

19 Section 5-50. Hospital unit or clinical patient care area.
20 "Hospital unit" or "clinical patient care area" means an
21 intensive care critical care unit, burn unit, labor and
22 delivery room (ante-partum and post-partum), newborn nursery,
23 post-anesthesia service area, emergency department, operating

1 room, pediatric unit, step-down or intermediate care unit,
2 specialty care unit, telemetry unit, general medical/surgical
3 care unit, psychiatric unit, rehabilitation unit, or skilled
4 nursing unit.

5 Section 5-55. Long-term acute-care hospital. "Long-term
6 acute-care hospital" means any hospital or health care facility
7 that specializes in providing acute care to medically complex
8 patients with an anticipated length of stay of more than 25
9 days. The term includes both free-standing and
10 "hospital-within-hospital" models of long-term acute-care
11 facilities.

12 Section 5-60. Medical/surgical unit. "Medical/surgical
13 unit" means a unit established to safeguard and protect
14 patients whose severity of illness, including all
15 co-morbidities, requires continuous observation and complex
16 interventions, and whose restorative measures and level of
17 nursing intensity require continuous care by a competent and
18 experienced direct care registered nurse. These units may
19 include general medical and post-surgical patients requiring
20 less than intensive care or step-down care and may include
21 mixed patient populations of diverse diagnoses and diverse age
22 groups excluding pediatric patients.

23 Section 5-65. Nursing intensity. "Nursing intensity"

1 means a direct observation or monitoring by a direct care
2 registered nurse, multiple assessments, specialized
3 intervention, evaluation, education or teaching of the patient
4 and his or her family or other representatives, and
5 documentation.

6 Section 5-70. Patient advocacy. "Patient advocacy" means
7 the professional obligation and right of a registered nurse or
8 a registered professional nurse to act as a patient advocate,
9 as circumstances require, by initiating action to improve
10 health care or change decisions or activities which in the
11 professional judgment of the registered nurse are against the
12 interests or wishes of the patient, or by giving the patient
13 the opportunity to make informed decisions about health care
14 before it is provided.

15 Section 5-75. Patient assessment. "Patient assessment"
16 means the utilization of critical thinking, which is the
17 intellectually disciplined process of actively and skillfully
18 interpreting, applying, analyzing, synthesizing, or evaluating
19 data obtained through direct observation and communication
20 with others.

21 Section 5-80. Professional judgment. "Professional
22 judgment" means the intellectual (educated, informed, and
23 experienced) process that a direct care registered nurse

1 exercises in forming an opinion and reaching a clinical
2 decision, in the patient's best interest, based upon analysis
3 of data, information, and scientific evidence.

4 Section 5-85. Rehabilitation unit. "Rehabilitation unit"
5 means a functional clinical unit for the provision of those
6 rehabilitation services that restore an ill or injured patient
7 to the highest level of self-sufficiency in the shortest
8 possible time, compatible with the patient's physical,
9 intellectual, and emotional or psychological capabilities and
10 in accordance with planned goals and objectives.

11 Section 5-90. Skilled nursing unit. "Skilled nursing unit"
12 means a functional clinical unit (i) for the provision of
13 skilled nursing care and supportive care to patients whose
14 primary need is for the availability of skilled nursing care on
15 a long-term basis, who are admitted after at least a 48-hour
16 period of continuous inpatient care, and (ii) which provides at
17 least the following: medical, nursing, dietary, and
18 pharmaceutical services and an activity program.

19 Section 5-95. Specialty care unit. "Specialty care unit"
20 means a unit (i) established to safeguard and protect patients
21 whose severity of illness, including all co-morbidities,
22 requires continuous observation and complex interventions,
23 (ii) whose restorative measures and level of nursing intensity

1 require continuous care by a competent and experienced direct
2 care registered nurse, (iii) that provides intensity of care
3 for a specific medical condition or a specific patient
4 population, and (iv) is more comprehensive for the specific
5 condition or disease process than is required on
6 medical/surgical units. The term includes a hospital unit that
7 is not a critical care or intensive care unit, medical/surgical
8 unit, rehabilitation unit, skilled nursing unit, step-down
9 unit, or telemetry unit.

10 Section 5-100. Step-down unit. "Step-down unit" means a
11 unit (i) established to safeguard and protect patients whose
12 severity of illness, including all co-morbidities, requires
13 continuous monitoring and complex interventions and (ii) whose
14 restorative measures and level of nursing intensity require
15 intermediate intensive care by a competent and experienced
16 direct care registered nurse for the immediate amelioration or
17 remediation of severe pathology for those patients requiring
18 less care than intensive care, but more than is required from
19 medical/surgical care.

20 Section 5-105. Telemetry unit. "Telemetry unit" means a
21 unit (i) established to safeguard and protect patients whose
22 severity of illness, including all co-morbidities, requires
23 continuous monitoring and complex intervention, (ii) whose
24 restorative measures and level of nursing intensity require

1 intermediate intensive care by a competent and experienced
2 direct care registered nurse, and (iii) designated for the
3 electronic monitoring, recording, retrieval, and display of
4 cardiac electrical signals.

5 Article 10. Minimum Safe Staffing Ratios

6 Section 10-5. Direct care registered nurse staffing
7 generally.

8 (a) Each hospital shall provide minimum staffing by direct
9 care registered nurses in accordance with the clinical unit
10 direct care registered nurse-to-patient staffing requirements
11 and ratios specified in Sections 10-15, 10-20, and 10-25.
12 Staffing for care not requiring a direct care registered nurse
13 is not included within these ratios and shall be determined
14 pursuant to the acuity-based patient classification system
15 described in Section 10-40.

16 (b) No hospital shall assign a direct care registered nurse
17 to a nursing unit or clinical area unless that hospital and the
18 direct care registered nurse determine that the direct care
19 registered nurse has demonstrated current competence in
20 providing care in that area and has also received orientation
21 to that hospital's clinical area sufficient to provide
22 competent safe, therapeutic, and effective nursing care to
23 patients in that area. The policies and procedures of the
24 hospital shall contain the hospital's criteria for making this

1 determination.

2 Section 10-10. Direct care registered nurse-to-patient
3 ratios generally.

4 (a) Direct care registered nurse-to-patient ratios
5 represent the maximum number of patients that shall be assigned
6 to one direct care registered nurse at any one time. For
7 purposes of this subsection, "assigned" means that the direct
8 care registered nurse has responsibility for the provision of
9 care to a particular patient within her or his validated
10 competency.

11 (b) There shall be no averaging of the number of patients
12 and the total number of direct care registered nurses on the
13 unit during any one shift or over any period of time.

14 (c) Only direct care registered nurses providing direct
15 patient care shall be included in the ratios. Nurse
16 Administrators, Nurse Supervisors, Nurse Managers, Charge
17 Nurses, or Case Managers shall not be included in the
18 calculation of the direct care registered nurse-to-patient
19 ratio.

20 (d) Only direct care registered nurses shall relieve other
21 direct care registered nurses during breaks, meals, and other
22 routine, expected absences from the unit.

23 Section 10-15. Direct care registered nurse staffing;
24 emergency department.

1 (a) There shall be no fewer than 2 direct care registered
2 nurses physically present in the emergency department when a
3 patient is present. At least one direct care registered nurse
4 shall be assigned to triage patients. Only direct care
5 registered nurses shall be assigned to triage patients. The
6 direct care registered nurse assigned to triage patients shall
7 be immediately available at all times to triage patients when
8 they arrive in the emergency department. The direct care
9 registered nurse assigned to triage patients shall perform
10 triage functions only. Triage direct care registered nurses,
11 base radio responder direct care registered nurses, and
12 specialty/flight registered nurses do not count in the
13 calculation of the direct care registered nurse-to-patient
14 ratio.

15 (b) When registered nursing staff, with validated critical
16 care competency, are attending critical care patients in the
17 emergency department, the direct care registered
18 nurse-to-patient ratio shall be 1:2 or fewer critical care
19 patients at all times. A patient in the emergency department
20 shall be considered a critical care patient when the patient
21 meets the criteria for admission to a critical care service
22 area within the hospital. Only direct care registered nurses
23 shall be assigned to critical trauma patients in the emergency
24 department, and a minimum direct care registered nurse to
25 critical trauma patient ratio of 1:1 shall be maintained at all
26 times. A critical trauma patient is a patient who has injuries

1 to an anatomic area that (i) require life saving interventions
2 or (ii) in conjunction with unstable vital signs, pose an
3 immediate threat to life or limb.

4 Section 10-20. Direct care registered nurse staffing;
5 operating room. The surgical services operating room shall have
6 at least one direct care registered nurse assigned to the
7 duties of the circulating nurse and a minimum of one additional
8 person serving as scrub assistant for each patient-occupied
9 operating room.

10 Section 10-25. Direct care registered nurse-to-patient
11 ratios; hospital clinical units or patient care areas.

12 (a) The direct care registered nurse-to-patient ratio
13 shall be 1:1 or fewer at all times when assigned to duties of
14 the circulating registered nurse in the operating room or
15 during a cesarean delivery; when assigned to an active labor
16 patient or a patient with medical or obstetrical complications,
17 or when initiating epidural anesthesia in the labor and
18 delivery suite; when assigned to an unstable or in
19 resuscitation period newborn; when assigned to a critical
20 trauma patient in the emergency department; or when assigned to
21 a patient receiving conscious sedation.

22 (b) The direct care registered nurse-to-patient ratio
23 shall be 1:2 or fewer at all times for critical care, intensive
24 care, neonatal intensive care, labor and delivery units,

1 coronary care, acute respiratory care, post-anesthesia
2 recovery (regardless of the type of anesthesia the patient
3 received), and burn units/patient care areas; when assigned to
4 critical patients in the emergency department; or when assigned
5 to immediate post-partum patients.

6 (c) The direct care registered nurse-to-patient ratio
7 shall be 1:3 or fewer at all times for the emergency
8 department, a step-down or intermediate intensive care,
9 pediatric, telemetry, combined labor/delivery/post-partum unit
10 or patient care area; when assigned to ante-partum patients who
11 are not in active labor; or when assigned to mother-baby
12 couplets.

13 (d) The direct care registered nurse-to-patient ratio
14 shall be 1:4 or fewer at all times for a medical/surgical,
15 pre-surgical/admission, ambulatory surgical, psychiatric, or
16 other specialty care unit or patient care area; when assigned
17 to post-partum patients, post-surgical gynecological patients,
18 or mothers only; when assigned to recently born infants; or
19 when assigned to combined post-cesarean delivery mothers and
20 newborns.

21 (e) The direct care registered nurse-to-patient ratio
22 shall be 1:5 or fewer at all times for the well baby nursery or
23 a rehabilitation unit or patient care area or for a skilled
24 nursing facility.

25 (f) In the event of multiple births, the total number of
26 mothers plus infants assigned to a single direct care

1 registered nurse shall never exceed 6.

2 Section 10-30. Staffing requirements in relation to
3 hospital units.

4 (a) Identifying a unit by a name or term other than
5 "hospital unit", "clinical patient care area", "critical care
6 unit", "intensive care unit", "medical/surgical unit",
7 "rehabilitation unit", "skilled nursing unit", "specialty care
8 unit", "step-down unit", or "telemetry unit", as defined in
9 this Act, does not affect a hospital's requirement to staff the
10 unit at the direct care registered nurse-to-patient ratios
11 identified for the level of intensity or type of care described
12 in this Article.

13 (b) Patients shall be cared for only on units where the
14 level of intensity, type of care, and direct care registered
15 nurse-to-patient ratios meet the individual requirements and
16 needs of each patient. The use of acuity-adjustable units or
17 clinical patient care areas is strictly prohibited.

18 Section 10-35. Use of rapid response teams as first
19 responders prohibited. In no case may a hospital use rapid
20 response teams as first responders.

21 Section 10-40. Additional nursing staff. In addition to any
22 other direct care registered nurse-to-patient ratio
23 requirements of this Article 10, every hospital shall assign

1 additional nursing staff, such as licensed practical nurses,
2 certified nursing assistants, and other ancillary staff,
3 through the implementation of a valid acuity-based patient
4 classification system for determining nursing care needs of
5 individual patients that reflects the assessment, made by the
6 assigned direct care registered nurse, of patient nursing care
7 requirements and provides for shift-by-shift staffing based on
8 those requirements.

9 Section 10-45. Written staffing plan. A written staffing
10 plan shall be developed by every hospital's Chief Nursing
11 Officer or a designee, based on individual patient care needs
12 determined by the acuity-based patient classification system.
13 The staffing plan shall be developed and implemented for each
14 patient care unit and shall specify individual patient care
15 requirements and the staffing levels or skill mix for direct
16 care registered nurses and other licensed and unlicensed
17 personnel. In no case shall the staffing level for direct care
18 registered nurses on any shift fall below the requirements set
19 forth in this Article 10.

20 Section 10-50. Record of staff assignments. Every hospital
21 shall keep a record of the actual direct care registered nurse,
22 licensed practical nurse, certified nursing assistant, and
23 other ancillary staff assignments to individual patients
24 documented on a day-to-day, shift-by-shift basis and must keep

1 copies of its staff assignments on file for a period of 2
2 years.

3 Section 10-55. Patient classification system review
4 committee. A hospital shall appoint a patient classification
5 system review committee. At least 60% of the members of a
6 hospital's patient classification system review committee
7 shall be unit-specific competent direct care registered nurses
8 who provide direct patient care. The members of the committee
9 shall be appointed by the hospital's Chief Nursing Officer,
10 except that if direct care registered nurses are represented
11 for collective bargaining purposes, all direct care registered
12 nurses on the committee shall be appointed by the authorized
13 collective bargaining agent.

14 Section 10-60. Changes in patient census. Every hospital
15 shall plan for routine fluctuations, such as admissions,
16 discharges, and transfers, in its patient census. If a health
17 care emergency causes a change in the number of patients on a
18 unit, the hospital must demonstrate that immediate and diligent
19 efforts were made to maintain required staffing levels. For
20 purposes of this Section, "health care emergency" means an
21 emergency declared by the federal government or the head of a
22 State or local governmental entity.

23 Section 10-65. Department; study of nursing staff. Not

1 later than 2 years after the effective date of this Act, the
2 Department shall complete and publish a study of licensed and
3 unlicensed hospital nursing staff and its effects on patient
4 safety and care in hospitals.

5 Section 10-70. Prohibited activities.

6 (a) A hospital may not directly assign any unlicensed
7 personnel to perform registered-nurse functions in lieu of care
8 delivered by a registered nurse and may not assign unlicensed
9 personnel to perform registered-nurse functions under the
10 supervision of a direct care registered nurse.

11 (b) Unlicensed personnel may not perform tasks that require
12 the clinical assessment, judgment, and skill of a licensed
13 registered nurse, including, without limitation: nursing
14 activities that require nursing assessment and judgment during
15 implementation; physical, psychological, and social
16 assessments that require nursing judgment, intervention,
17 referral, or follow-up; formulation of a plan of nursing care
18 and evaluation of the patient's response to the care provided;
19 and administration of medications.

20 (c) A hospital may not impose mandatory overtime
21 requirements to meet the staffing ratios required in this
22 Article 10.

23 (d) A hospital may not impose lay-offs of licensed or
24 practical nurses, certified nursing assistants, or other
25 ancillary staff to meet the direct care registered

1 nurse-to-patient ratio requirements of this Article 10.

2 Section 10-75. Consumer protection. Every hospital shall
3 post on a day-to-day, shift-by-shift basis, in a conspicuous
4 place visible to the patients, hospital staff, and public (i)
5 the ratios of direct care registered nursing staff to patients
6 on each unit, (ii) additional staffing requirements as
7 determined by the patient classification system for each unit,
8 (iii) the actual staff and staff mix provided, and (iv) the
9 variance between required and actual staffing patterns. Every
10 hospital shall give to each patient admitted to the hospital
11 for inpatient care a toll-free telephone number for the
12 Department of Public Health to report inadequate staffing or
13 care.

14 Article 15. Direct Care Registered Nurse
15 Functions Relating to Patient Care

16 Section 15-5. Functions generally.

17 (a) A direct care professional nurse, holding a valid
18 license to practice as a registered nurse, employing scientific
19 knowledge and experience in the physical, social, and
20 biological sciences and exercising independent judgment in
21 applying the nursing process, shall directly perform the
22 following essential functions:

23 (1) Continuous and ongoing assessments of a patient's

1 condition based upon the independent professional judgment
2 of the direct care registered nurse.

3 (2) Planning, clinical supervision, implementation,
4 and evaluation of the nursing care provided to each
5 patient. The implementation of nursing care may be assigned
6 by the direct care registered nurse responsible for the
7 patient to other licensed nursing staff or to unlicensed
8 staff, subject to any limitations of the licensure,
9 certification, level of validated competency, or
10 applicable law concerning such staff. In any case, however:

11 (A) The direct care registered nurse assigned to a
12 patient must determine in her or his professional
13 judgment that nursing personnel to be assigned patient
14 care tasks possess the necessary preparation and
15 capability to competently perform the assigned tasks.

16 (B) The direct care registered nurse may assign the
17 implementation of nursing care only when circumstances
18 permit the direct care registered nurse to effectively
19 supervise nursing care provided pursuant to the
20 assignment.

21 (3) Assessment, planning, implementation, and
22 evaluation of patient education, including ongoing
23 discharge teaching of each patient. Any assignment of
24 specific patient education tasks to patient care personnel
25 shall be made by the direct care registered nurse
26 responsible for the patient.

1 (b) The planning and delivery of patient care (i) shall
2 reflect all elements of the nursing process, including
3 assessment, nursing diagnosis, planning, intervention,
4 evaluation, and, as circumstances require, patient advocacy,
5 and (ii) shall be initiated by a direct care registered nurse
6 at the time of a patient's admission to the hospital.

7 (c) The nursing plan for a patient's care shall be
8 discussed with and developed as a result of coordination with
9 the patient, the patient's family, or other representatives of
10 the patient, when appropriate, and staff of other disciplines
11 involved in the care of the patient.

12 (d) The direct care registered nurse shall evaluate the
13 effectiveness of the care plan (i) through assessments based on
14 direct observation of the patient's physical condition and
15 behavior, signs and symptoms of illness, and reactions to
16 treatment and (ii) through communication with the patient and
17 the health care team members. The direct care registered nurse
18 shall modify the plan as needed.

19 (e) Information related to the patient's initial
20 assessment and reassessments, nursing diagnosis, plan,
21 intervention, evaluation, and patient advocacy shall be
22 permanently recorded, as narrative registered nurse progress
23 notes, in the patient's medical record. The practice of
24 "charting by exception" is expressly prohibited.

25 Section 15-10. Patient assessment.

1 (a) Patient assessment requires (i) direct observation of
2 the patient's signs and symptoms of illness, reaction to
3 treatment, behavior and physical condition, and (ii)
4 interpretation of information obtained from the patient and
5 others, including other care givers on the health team.
6 Assessment requires data collection by the direct care
7 registered nurse and the analysis, synthesis, and evaluation of
8 such data.

9 (b) Only a direct care registered nurse is authorized to
10 perform patient assessments. A licensed practical nurse may
11 assist a direct care registered nurse in data collection.

12 Section 15-15. Determining nursing care needs of patients.

13 (a) The nursing care needs of an individual patient shall
14 be determined by a direct care registered nurse through the
15 process of ongoing patient assessments, nursing diagnosis, and
16 formulation and adjustment of nursing care plans.

17 (b) The prediction of individual patient nursing care needs
18 for prospective assignment of direct care registered nurses
19 shall be based on individual patient assessments by the direct
20 care registered nurse assigned to each patient and in
21 accordance with a documented patient classification system as
22 provided in Article 10.

23 Section 15-20. Independent judgment.

24 (a) Competent performance of the essential functions of a

1 direct care registered nurse as described in subdivisions
2 (a)(1) through (a)(3) of Section 15-5, Section 15-10, and
3 Section 15-15 requires the exercise of independent judgment in
4 the interests of the patient. The exercise of such independent
5 judgment, unencumbered by the commercial or revenue-generation
6 priorities of a hospital or other employing entity of a direct
7 care registered nurse, is necessary to assure safe,
8 therapeutic, and competent treatment of hospital patients and
9 is essential to protect the health and safety of the people of
10 Illinois.

11 (b) The exercise of independent judgment by a direct care
12 registered nurse in the performance of the essential functions
13 described in subdivisions (a)(1) through (a)(3) of Section 15-5
14 and as provided in this Act and the Nurse Practice Act shall be
15 provided in the exclusive interests of the patient and shall
16 not, for any purpose, be considered, relied upon, or
17 represented as a job function, authority, responsibility, or
18 activity undertaken in any respect for the purpose of serving
19 the business, commercial, operational, or other institutional
20 interests of the hospital.

21 Section 15-25. Clinical supervision.

22 (a) In addition to the limitations on assignments of
23 patient care tasks provided in subsections (a) and (b) of
24 Section 10-70, a direct care registered nurse responsible for a
25 patient may assign tasks required in the implementation of

1 nursing care for that patient to other licensed nurses or to
2 unlicensed personnel only if she or he:

3 (1) determines that the personnel to whom the tasks are
4 assigned have statutory authority to define the tasks and
5 possess the necessary training, experience, and capability
6 to competently and safely perform the tasks to be assigned;
7 and

8 (2) effectively supervises the clinical functions and
9 nursing care tasks performed by the assigned personnel.

10 (b) The exercise of clinical supervision of nursing care
11 personnel by a direct care registered nurse in the performance
12 of the essential functions described in subdivisions (a)(1)
13 through (a)(3) of Section 15-5 and as provided in this Act and
14 the Nurse Practice Act shall be in the exclusive interests of
15 the patient and shall not, for any purpose, be considered,
16 relied upon, or represented as a job function, authority,
17 responsibility, or activity undertaken in any respect for the
18 purpose of serving the business, commercial, operational, or
19 other institutional interests of the hospital employer, but
20 constitute the exercise of professional nursing authority and
21 duty exclusively in the interests of the patient.

22 Article 20. Patient Advocacy

23 Section 20-5. Professional obligation. A registered nurse
24 has the professional obligation and therefore the right to act

1 as a patient's advocate, as circumstances require, by (i)
2 initiating action to improve the patient's health care or to
3 change decisions or activities which, in the professional
4 judgment of the registered nurse, are against the interests or
5 wishes of the patient and (ii) giving the patient the
6 opportunity to make informed decisions about his or her health
7 care before it is provided.

8 Section 20-10. Acceptance of patient care assignments. A
9 direct care registered nurse is always responsible for
10 providing safe, therapeutic, and competent nursing care to
11 assigned patients. Before accepting a patient assignment, a
12 direct care registered nurse must have the necessary knowledge,
13 judgment, skills, and ability to provide the required care. It
14 is the responsibility of the direct care registered nurse to
15 determine whether she or he is clinically competent to perform
16 the nursing care required by patients in a particular clinical
17 unit or with a particular diagnosis, condition, prognosis, or
18 other determinative characteristics of nursing care. If a
19 direct care registered nurse is not clinically competent to
20 perform the care required for a patient to be assigned for
21 nursing care, she or he should not accept the patient care
22 assignment. Such a refusal to accept a patient care assignment
23 is an exercise of the direct care registered nurse's duty and
24 right of patient advocacy.

1 Section 20-15. Acceptance of orders.

2 (a) In the course of performing the responsibilities and
3 essential functions described in Article 15, a direct care
4 registered nurse assigned to a patient shall receive orders
5 initiated by physicians and other legally authorized health
6 care professionals within their scope of licensure regarding
7 patient care services to be provided to the patient, including,
8 without limitation, the administration of medications and
9 therapeutic agents necessary to implement a treatment, disease
10 prevention, or rehabilitative regimen.

11 (b) The direct care registered nurse shall assess each such
12 order before implementation to determine whether the order is:
13 (i) in the best interests of the patient; (ii) initiated by a
14 person legally authorized to issue the order; and (iii) in
15 accordance with applicable law and regulation governing
16 nursing care.

17 (c) If a direct care registered nurse determines that the
18 criteria described in items (i) through (iii) of subsection (b)
19 have not been satisfied with respect to a particular order, or
20 has some doubt regarding the meaning or conformance of the
21 order with those criteria, she or he shall seek clarification
22 from the initiator of the order, the patient's physician, or
23 another appropriate medical officer. Clarification must be
24 obtained prior to implementing the order.

25 If, upon clarification, the direct care registered nurse
26 determines that the criteria for implementation of the order

1 have not been satisfied, she or he may refuse to implement the
2 order on the basis that the order is not in the best interests
3 of the patient.

4 Seeking clarification of an order or refusing an order as
5 described in this Section constitutes an exercise of the direct
6 care registered nurse's duty and right of patient advocacy.

7 Section 20-20. Protected speech.

8 (a) Every direct care registered nurse responsible for
9 patient care in a hospital shall enjoy the right of free speech
10 and shall be protected in the exercise of that right as
11 provided in this Section, both during working hours and during
12 off-duty hours. The right of free speech protected by this
13 Section is a necessary incident of the professional nurse's
14 duty of patient advocacy and is essential to protecting the
15 health and safety of hospital patients and of the people of
16 Illinois.

17 (b) The speech protected by this Section includes, without
18 limitation, any type of spoken, gestured, written, printed, or
19 electronically communicated expression concerning any matter
20 related to or affecting safe, therapeutic, and competent direct
21 care registered nursing practice at a hospital facility, at
22 facilities within a large health delivery system or corporate
23 chain which includes a hospital, or more generally within the
24 health care industry.

25 The content of speech protected by this Section includes,

1 without limitation, the facts and circumstances of particular
2 events, patient care practices, institutional actions,
3 policies, or conditions which may facilitate or impede
4 competent and safe nursing practice or patient care, adverse
5 patient outcomes or incidents, sentinel or reportable events,
6 and arguments in support of or against hospital policies or
7 practices relating to the delivery of nursing care.

8 Protected speech under this Section includes the
9 reporting, whether internally, externally, or publicly, of
10 actions, conduct, events, practices, or other matters that are
11 believed to do any of the following:

12 (1) Constitute a violation of federal, State, or local
13 laws or regulations.

14 (2) Constitute a breach of applicable codes of
15 professional ethics, including the professional and
16 ethical obligations of direct care registered nurses.

17 (3) Concern matters which the reporting direct care
18 registered nurse believes are appropriate or required for
19 disclosure in furtherance and support of the nurse's
20 exercise of patient advocacy duties to improve health care
21 or change decisions or activities which in the professional
22 judgment of the direct care registered nurse are against
23 the interests or wishes of a patient, or to ensure that a
24 patient is afforded a meaningful opportunity to make
25 informed decisions about health care before it is provided.

26 (4) Concern matters described in paragraph (3) made in

1 aid and support of the exercise of patient advocacy duties
2 of direct care registered nurse colleagues.

3 (c) Nothing in this Section is intended to authorize
4 disclosure of private and confidential patient information,
5 except when such disclosure is (i) required by law, (ii)
6 compelled by proper legal process, (iii) consented to by the
7 patient, or (iv) provided in confidence to a regulatory or
8 accreditation agency or other governmental entity for
9 investigatory purposes or pursuant to a formal or informal
10 complaint of unlawful or improper practices for purposes of
11 achieving corrective and remedial action.

12 (d) Engaging in speech activity protected under this
13 Section constitutes an exercise of the direct care registered
14 nurse's duty and right of patient advocacy. The subject matter
15 of protected speech activity as described in this Section is
16 presumed to be a matter of public concern, and the disclosures
17 protected under this Section are presumed to be in the public
18 interest.

19 Section 20-25. Fiduciary duty; conflict of interest.

20 (a) A direct care registered nurse is in a fiduciary
21 relationship to an assigned patient as to matters within the
22 scope of practice and professional responsibility of the nurse
23 to provide safe, therapeutic, and competent nursing care in the
24 interests of the patient. As to such matters, the registered
25 nurse responsible for a patient shall perform the essential

1 functions of a direct care registered nurse exclusively in the
2 interests of the patient and shall not be influenced by the
3 interests of any third party or the directives of any such
4 third party or by motives other than the accomplishment of her
5 or his professional responsibility to provided safe,
6 therapeutic, and competent nursing care in the interests and
7 for the benefit of the patient.

8 (b) A direct care registered nurse shall not be influenced
9 by her or his own personal interests or by the interests or
10 demands of a third party which are in conflict with the
11 interests of assigned patients in performing the essential
12 registered nursing functions required under Article 15. The
13 refusal by a direct care registered nurse to engage in activity
14 involving such a conflict of interest with respect to nursing
15 care for which she or he is responsible shall constitute an
16 exercise of the registered nurse's duty and right of patient
17 advocacy.

18 Section 20-30. Participation in organizations.

19 (a) A direct care nurse, as a necessary incident and
20 condition of her or his independent duty and right of patient
21 advocacy, shall have the right to do the following:

22 (1) To form, join, or participate in independent
23 hospital-based professional practice committees, general
24 and specialty registered nursing professional
25 associations, patient advocacy organizations, and labor

1 organizations.

2 (2) To seek representation to engage in collective
3 bargaining with her or his hospital employer, or to seek
4 other mutual aid or protection in exercising the
5 professional duty and public health responsibility of
6 patient advocacy.

7 (b) Engaging in activity described in subsection (a)
8 constitutes an exercise of the professional nurse's duty and
9 right of patient advocacy.

10 Section 20-35. Protected rights.

11 (a) Any person has the right to:

12 (1) Oppose any policy, practice, or action of any
13 hospital that is alleged to violate, breach, or fail to
14 comply with any provision of this Act.

15 (2) Cooperate, provide evidence, testify, or otherwise
16 support or participate in any investigation or complaint
17 proceeding conducted pursuant to Section 20-45.

18 (b) By virtue of her or his professional license and
19 ethical obligations, a direct care registered nurse has a duty
20 and right to act and provide care exclusively in the interests
21 of patients and to act as a patient's advocate, as
22 circumstances require, by (i) initiating action to improve
23 health care or to change decisions or activities which in the
24 professional judgment of the direct care registered nurse are
25 against the interests or wishes of an assigned patient or (ii)

1 giving a patient the opportunity to make informed decisions
2 about health care before it is provided. This Act confirms and
3 creates statutory patient advocacy rights for direct care
4 registered nurses as provided in this Article 20 and made
5 enforceable under Article 25.

6 (c) A patient in a hospital who is aggrieved by the
7 hospital's interference with the full and free exercise of
8 patient advocacy duties by a direct care registered nurse has
9 the right to make or file a complaint and to cooperate, provide
10 evidence, testify, or otherwise support or participate in any
11 investigation or complaint proceeding conducted pursuant to
12 Article 25. A patient shall be considered "aggrieved" for
13 purposes of this subsection if the patient's health or safety
14 was jeopardized or the patient was exposed to additional risk
15 of injury, disease, pain, or suffering as a consequence of
16 conditions or circumstances caused in whole or in part by the
17 hospital's interference with patient advocacy rights of a
18 direct care registered nurse. Actual physical injury, disease,
19 pain, or suffering is not required for a patient to have
20 standing to file a complaint and obtain appropriate remedies
21 under Article 25.

22 (d) A direct care registered nurse who is aggrieved by a
23 hospital's interference with the full and free exercise of the
24 nurse's patient advocacy duties has the right to make or file a
25 complaint cooperate, provide evidence, testify, or otherwise
26 support or participate in any investigation or complaint

1 proceeding conducted pursuant to Article 25.

2 Section 20-40. Interference with rights and duties
3 prohibited.

4 (a) It is unlawful for a hospital to interfere with,
5 restrain, coerce, intimidate, or deny the exercise or the
6 attempt to exercise, by any person, of any right provided or
7 protected under this Act.

8 (b) It is unlawful for a hospital to discriminate or
9 retaliate against any person for opposing any policy, practice,
10 or action of the hospital which is alleged to violate, breach,
11 or fail to comply with any provision of this Act.

12 (c) No hospital employer shall make, adopt, or enforce any
13 rule, regulation, policy, or practice which directly or
14 indirectly prohibits, impedes, discourages, intimidates,
15 coerces, or induces in any manner a direct care registered
16 nurse from engaging in protected speech activities or
17 disclosing information as provided in this Article 20.

18 (d) No hospital employer shall make, adopt, or enforce any
19 rule, regulation, policy, or practice which directly or
20 indirectly authorizes, sanctions, permits, excuses, or
21 encourages any other person to engage in conduct which is
22 likely to prohibit, impede, discourage, intimidate, coerce, or
23 induce in any manner a direct care registered nurse from
24 engaging in protected speech activities or disclosing
25 information as provided in this Article 20.

1 (e) No hospital or other health care institution shall
2 engage in the deployment of technology that limits a direct
3 care registered nurse (i) in performing functions that are part
4 of the nursing process, including full exercise of independent
5 clinical judgment in assessment, planning, implementation and
6 evaluation of care or (ii) from acting as a patient advocate in
7 the exclusive interest of the patient. Technology shall not be
8 skill-degrading, interfere with a direct care registered
9 nurse's provision of individualized patient care, or override a
10 direct care registered nurse's independent professional
11 judgment. In addition, there shall be no interference with a
12 registered nurse's right to advocate in the exclusive interest
13 of a patient.

14 (f) A hospital employer, all management personnel employed
15 by a hospital, all personnel with management or supervisory
16 authority employed by a hospital, including the registered
17 nurse administrator, registered nurse manager, or registered
18 nurse supervisor, and all medical personnel who treat patients
19 admitted to hospital nursing unit, whether employed by the
20 hospital or privileged to admit patients through an affiliated
21 medical group or otherwise, are strictly prohibited from
22 interfering with the rights and obligations of a direct care
23 registered nurses to perform the duties of patient advocacy as
24 provided in this Article 20.

25 Prohibited interference with patient advocacy duties of a
26 direct care registered nurse includes conduct, actions, or

1 omissions which directly or indirectly are likely to prohibit,
2 impede, discourage, intimidate, coerce, or induce in any manner
3 a direct care registered nurse from taking action indicated or
4 authorized by the professional obligations of patient advocacy
5 described in this Article 20. Any act of prohibited
6 interference committed by an individual within his or her
7 course and scope of employment as management, nursing service,
8 or medical personnel for a hospital as described in this
9 subsection shall be considered prohibited interference by the
10 hospital for purposes of this Act.

11 (g) An employee of a hospital employer who has authority to
12 take, direct others to take, recommend, or approve any
13 personnel action of the employer with respect to a direct care
14 registered nurse shall not, with respect to such authority,
15 take or fail to take, or threaten to take or fail to take, any
16 such action with respect to such nurse because the nurse
17 engages in conduct in furtherance of her or his duties and
18 rights as described in this Article 20, including, without
19 limitation, refusing to obey an order that the direct care
20 registered nurse has determined, in the exercise of her or his
21 independent judgment, should be refused in accordance with the
22 direct care registered nurse's duty and right of patient
23 advocacy. Any such action or omission undertaken in the course
24 or scope of employment for a hospital shall be considered an
25 action or omission of the hospital for purposes of this Act.

26 (h) Any employee of a hospital employer who has authority

1 to take, direct others to take, recommend, or approve any
2 report of any incident, conduct, or circumstances involving a
3 direct care registered nurse employed by the hospital to any
4 professional licensing board, disciplinary body, or
5 investigatory function or officer for purposes of complaint,
6 investigation, or imposition of professional discipline or
7 other adverse action affecting the direct care registered
8 nurse's active license status or good standing to practice as a
9 duly licensed registered nurse in the State of Illinois, shall
10 not, with respect to such authority, take or fail to take, or
11 threaten to take or fail to take, any such action with respect
12 to such direct care registered nurse because the direct care
13 registered nurse engages in conduct in furtherance of her or
14 his duties and rights as described in this Article 20,
15 including, without limitation, refusing to obey an order that
16 the direct care registered nurse has determined, in the
17 exercise of her or his independent judgment, should be refused
18 in accordance with the registered nurse's duty of patient
19 advocacy.

20 Section 20-45. Retaliation or discrimination prohibited. A
21 hospital employer may not discriminate or retaliate in any
22 manner against any patient, employee, or contract employee of
23 the hospital, or any other person, because that person has (i)
24 presented a grievance or complaint, (ii) initiated or
25 cooperated in any investigation or proceeding of any

1 governmental entity, regulatory agency, or private
2 accreditation body, (iii) made a civil claim or demand, or (iv)
3 filed an action relating to the care, services, or conditions
4 of that hospital or of any affiliated or related facility.

5 Article 25. Enforcement of Rights.

6 Section 25-5. Liability for damages or equitable relief.

7 (a) A hospital employer who violates any provision of
8 Article 20 is liable to the aggrieved employee for the
9 following:

10 (1) Damages equal to the amount of:

11 (A) any wages, salary, employment benefits, or
12 other compensation denied or lost to the employee by
13 reason of the violation; or

14 (B) in a case in which wages, salary, employment
15 benefits, or other compensation have not been denied or
16 lost to the employee, any actual monetary loss
17 sustained by the employee as a direct result of the
18 violation.

19 (2) Interest on the amount of damages described in
20 paragraph (1), calculated at the prevailing rate.

21 (3) An additional amount as liquidated damages equal to
22 the sum of the amount of damages described in paragraph (1)
23 and the interest described in paragraph (2).

24 (b) In addition to the relief set forth in subsection (a),

1 a hospital employer is liable for such equitable relief as may
2 be appropriate, including including the aggrieved employee's
3 employment reinstatement.

4 Section 25-10. Action to recover damages or equitable
5 relief.

6 (a) An action to recover the damages or equitable relief
7 described in Section 25-5 may be maintained against any
8 hospital employer (including a public agency) in any court of
9 competent jurisdiction by any one or more employees for and in
10 behalf of the employee or employees as well as other employees
11 similarly situated.

12 (b) The court in an action under this Section shall award
13 to a prevailing plaintiff reasonable attorney's fees,
14 reasonable expert witness fees, and other costs of the action.

15 (c) An action may be brought under this Section not later
16 than 2 years after the date of the last event constituting the
17 alleged violation for which the action is brought.

18 (d) In the case of an action brought under this Section for
19 a willful violation, the action may be brought within 3 years
20 after the date of the last event constituting the alleged
21 violation for which the action is brought.

22 Section 25-15. Retaliation against patient; presumption.
23 If a hospital engages in any type of discriminatory treatment
24 of a patient by whom, or upon whose behalf, a grievance or

1 complaint has been submitted, directly or indirectly, to any
2 governmental entity, regulatory agency, or private
3 accreditation body, and if that discriminatory treatment
4 occurs within 180 days after the filing of the grievance or
5 complaint, then the hospital's conduct raises a rebuttable
6 presumption that the action was taken by the hospital in
7 retaliation for the filing of the grievance or complaint.

8 Section 25-20. Retaliation against employee; presumption;
9 relief.

10 (a) If a hospital (i) engages in any type of discriminatory
11 treatment of an employee who has presented a grievance or
12 complaint, or initiated, participated in, or cooperated in any
13 investigation or proceeding by or before any governmental
14 entity or private accreditation body, and (ii) had knowledge of
15 the employee's initiation, participation, or cooperation, and
16 if that discriminatory treatment occurs within 180 days after
17 the filing of the grievance or complaint, then the hospital's
18 conduct raises a rebuttable presumption that the
19 discriminatory action was taken by the hospital in retaliation
20 for the filing of the grievance or complaint. For purposes of
21 this Section, "discriminatory treatment of an employee"
22 includes discharge, demotion, suspension, or any other
23 unfavorable change in the terms or conditions of employment, or
24 the threat of any such action.

25 (b) An employee who has been discriminated against as

1 described in subsection (a) is entitled to reinstatement,
2 reimbursement for lost wages and work benefits caused by the
3 acts of the employer, and an award of reasonable attorney's
4 fees and costs as the prevailing party.

5 Section 25-25. Civil penalties.

6 (a) If a hospital employer is found to have violated or
7 interfered with any of the rights or protections provided and
8 guaranteed under this Article, the Department may assess a
9 civil penalty of not more than \$25,000 for each such violation
10 or occurrence of prohibited conduct.

11 (b) If any member of a hospital's management, nursing
12 service, or medical personnel is found to have violated or
13 interfered with any of the rights or protections provided and
14 guaranteed under this Article, the Department may assess a
15 civil penalty of not more than \$20,000 for each such violation
16 or occurrence of prohibited conduct.

17 (c) A hospital found to have violated or aided and abetted
18 a violation of any provision of Article 10 is subject (i) in
19 addition to any other penalties that may be prescribed by law,
20 to enforcement action by the Department, including the use of
21 injunctive relief available to force compliance with that
22 Article or closure of the hospital and (ii) to a civil money
23 penalty assessed by the Department of not more than \$25,000 for
24 each violation and an additional \$10,000 per nursing unit shift
25 until the violation is corrected.

1 (d) The Attorney General shall enforce penalties imposed
2 under this Section in the county in which the violation
3 occurred.

4 (e) The penalties authorized under this Section are in
5 addition to any other penalties that may be imposed under this
6 Act. Penalties collected pursuant to this Section shall be
7 deposited into the General Revenue Fund.

8 Section 25-30. Posting of Act provisions. Every hospital
9 shall post the provisions of Articles 15 and 20 in a prominent
10 place for review by the hospital's employees and patients and
11 by the public. The posting shall have a title across the top in
12 no less than 35 point, bold typeface stating the following:
13 "RIGHTS OF REGISTERED NURSES AS PATIENT ADVOCATES AND OF
14 EMPLOYEES AND PATIENTS".

15 Article 90. Amendatory Provisions

16 Section 90-5. The Hospital Licensing Act is amended by
17 adding Section 2.5 as follows:

18 (210 ILCS 85/2.5 new)

19 Sec. 2.5. Relationship to Hospital Patient Protection Act.
20 In the case of a conflict between a provision of this Act and a
21 provision of the Hospital Patient Protection Act, the Hospital
22 Patient Protection Act shall control.

1 Section 90-10. The Nurse Practice Act is amended by adding
2 Section 50-17 as follows:

3 (225 ILCS 65/50-17 new)

4 Sec. 50-17. Relationship to Hospital Patient Protection
5 Act. In the case of a conflict between a provision of this Act
6 and a provision of the Hospital Patient Protection Act, the
7 Hospital Patient Protection Act shall control.