AN ACT concerning hospitals.

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

Section 1. Short title. This Act may be cited as the Hospital Report Card Act.

Section 5. Findings. The General Assembly finds that Illinois consumers have a right to access information about the quality of health care provided in Illinois hospitals in order to make better decisions about their choice of health care provider.

Section 10. Definitions. For the purpose of this Act:

"Average daily census" means the average number of inpatients receiving service on any given 24-hour period beginning at midnight in each clinical service area of the hospital.

"Clinical service area" means a grouping of clinical services by a generic class of various types or levels of support functions, equipment, care, or treatment provided to inpatients. Hospitals may have, but are not required to have, the following categories of service: behavioral health, critical care, maternal-child care, medical-surgical, pediatrics, perioperative services, and telemetry.

"Department" means the Department of Public Health.

"Direct-care nurse" and "direct-care nursing staff" includes any registered nurse, licensed practical nurse, or assistive nursing personnel with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patient.

"Hospital" means a health care facility licensed under the Hospital Licensing Act.

"Nursing care" means care that falls within the scope of practice set forth in the Nursing and Advanced Practice Nursing Act or is otherwise encompassed within recognized professional standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation, and patient advocacy.

"Retaliate" means to discipline, discharge, suspend, demote, harass, deny employment or promotion, lay off, or take any other adverse action against direct-care nursing staff as a result of that nursing staff taking any action described in this Act.

"Skill mix" means the differences in licensing, specialty, and experiences among direct-care nurses.

"Staffing levels" means the numerical nurse to patient ratio by licensed nurse classification within a nursing department or unit.

"Unit" means a functional division or area of a hospital in which nursing care is provided.

Section 15. Staffing levels.

(a) The number of registered professional nurses, licensed practical nurses, and other nursing personnel assigned to each patient care unit shall be consistent with the types of nursing care needed by the patients and the capabilities of the staff. Patients on each unit shall be evaluated near the end of each change of shift by criteria developed by the nursing service. There shall be staffing schedules reflecting actual nursing personnel required for the hospital and for each patient unit. Staffing patterns shall reflect consideration of nursing goals, standards of nursing practice, and the needs of the patients.

(b) Current nursing staff schedules shall be available upon request at each patient care unit. Each schedule shall list the daily assigned nursing personnel and average daily

census for the unit. The actual nurse staffing assignment roster for each patient care unit shall be available upon request at the patient care unit for the effective date of that roster. Upon the roster's expiration, the hospital shall retain the roster for 5 years from the date of its expiration.

(c) All records required under this Section, including anticipated staffing schedules and the methods to determine and adjust staffing levels shall be made available to the public upon request.

(d) All records required under this Section shall be maintained by the facility for no less than 5 years.

Section 20. Orientation and training.

(a) All health care facilities shall have established an orientation process that provides initial job training and information and assesses the direct care nursing staff's ability to fulfill specified responsibilities.

(b) Personnel not competent for a given unit shall not be assigned to work there without direct supervision until appropriately trained.

(c) Staff training information will be available upon request, without any information identifying a patient, employee, or licensed professional at the hospital.

Section 25. Hospital reports.

(a) Individual hospitals shall prepare a quarterly report including all of the following:

(1) Nursing hours per patient day, average daily census, and average daily hours worked for each clinical service area.

(2) Nosocomial infection rates for the facility for the specific clinical procedures determined by the Department by rule under the following categories:

(A) Class I surgical site infection.

(B) Ventilator-associated pneumonia.

(C) Central line-related bloodstream infections.

The Department shall only disclose Illinois hospital infection rate data according to the current benchmarks of the Centers for Disease Control's National Nosocomial Infection Surveillance Program.

(b) Individual hospitals shall prepare annual reports including vacancy and turnover rates for licensed nurses per clinical service area.

(c) None of the information the Department discloses to the public may be made available in any form or fashion unless the information has been reviewed, adjusted, and validated according to the following process:

(1) The Department shall organize an advisory committee, including representatives from the Department, public and private hospitals, direct care nursing staff, physicians, academic researchers, consumers, health insurance companies, organized labor, and organizations representing hospitals and physicians. The advisory committee must be meaningfully involved in the development of all aspects of the Department's methodology for collecting, analyzing, and disclosing the information collected under this Act, including collection methods, formatting, and methods and means for release and dissemination.

(2) The entire methodology for collecting and analyzing the data shall be disclosed to all relevant organizations and to all hospitals that are the subject of any information to be made available to the public before any public disclosure of such information.

(3) Data collection and analytical methodologies shall be used that meet accepted standards of validity

and reliability before any information is made available to the public.

(4) The limitations of the data sources and analytic methodologies used to develop comparative hospital information shall be clearly identified and acknowledged, including but not limited to the appropriate and inappropriate uses of the data.

(5) To the greatest extent possible, comparative hospital information initiatives shall use standard-based norms derived from widely accepted provider-developed practice guidelines.

(6) Comparative hospital information and other information that the Department has compiled regarding hospitals shall be shared with the hospitals under review prior to public dissemination of such information and these hospitals have 30 days to make corrections and to add helpful explanatory comments about the information before the publication.

(7) Comparisons among hospitals shall adjust for patient case mix and other relevant risk factors and control for provider peer groups, when appropriate.

(8) Effective safeguards to protect against the unauthorized use or disclosure of hospital information shall be developed and implemented.

(9) Effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective hospital data shall be developed and implemented.

(10) The quality and accuracy of hospital information reported under this Act and its data collection, analysis, and dissemination methodologies shall be evaluated regularly.

(11) Only the most basic identifying information from mandatory reports shall be used, and information

identifying a patient, employee, or licensed professional shall not be released. None of the information the Department discloses to the public under this Act may be used to establish a standard of care in a private civil action.

(d) Quarterly reports shall be submitted, in a format set forth in rules adopted by the Department, to the Department by April 30, July 31, October 31, and January 31 each year for the previous quarter. Data in quarterly reports must cover a period ending not earlier than one month prior to submission of the report. Annual reports shall be submitted by December 31 in a format set forth in rules adopted by the Department to the Department. All reports shall be made available to the public on-site and through the Department.

(e) If the hospital is a division or subsidiary of another entity that owns or operates other hospitals or related organizations, the annual public disclosure report shall be for the specific division or subsidiary and not for the other entity.

(f) The Department shall disclose information under this Section in accordance with provisions for inspection and copying of public records required by the Freedom of Information Act provided that such information satisfies the provisions of subsection (c) of this Section.

(g) Notwithstanding any other provision of law, under no circumstances shall the Department disclose information obtained from a hospital that is confidential under Part 21 of Article 8 of the Code of Civil Procedure.

(h) No hospital report or Department disclosure may contain information identifying a patient, employee, or licensed professional.

Section 30. Department reports. The Department of Public

Health shall annually submit to the General Assembly a report summarizing the quarterly reports by health service area and shall publish that report on its website. The Department of Public Health may issue quarterly informational bulletins at its discretion, summarizing all or part of the information submitted in these quarterly reports. The Department shall also publish risk-adjusted mortality rates for each hospital based upon information hospitals have already submitted to the Department pursuant to their obligations to report health care information under other public health reporting laws and regulations outside of this Act. The published mortality rates must comply with the hospital data publication process contained in subsection (c) of Section 25 of this Act.

Section 35. Whistleblower protections.

(a) A hospital covered by this Act shall not penalize, discriminate, or retaliate in any manner against an employee with respect to compensation or the terms, conditions, or privileges of employment who in good faith, individually or in conjunction with another person or persons, does any of the following or intimidate, threaten, or punish an employee to prevent him or her from doing any of the following:

(1) Discloses to the nursing staff supervisor or manager, a private accreditation organization, the nurse's collective bargaining agent, or a regulatory agency any activity, policy, or practice of a hospital that violates this Act or any other law or rule or that the employee reasonably believes poses a risk to the health, safety, or welfare of a patient or the public.

(2) Initiates, cooperates, or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by this Act or any other law or rule or that the employee reasonably believes poses a

risk to the health, safety, or welfare of a patient or the public.

(3) Objects to or refuses to participate in any activity, policy, or practice of a hospital that violates this Act or any law or rule of the Department or that a reasonable person would believe poses a risk to the health, safety, or welfare of a patient or the public.

(4) Participates in a committee or peer review process or files a report or complaint that discusses allegation of unsafe, dangerous, or potentially dangerous care within the hospital.

(b) For the purposes of this Section, an employee is presumed to act in good faith if the employee reasonably believes that (i) the information reported or disclosed is true and (ii) a violation has occurred or may occur. An employee is not acting in good faith under this Section if the employee's report or action was based on information that the employee should reasonably know is false or misleading. The protection of this Section shall also not apply to an employee unless the employee gives written notice to a hospital manager of the activity, policy, practice, or violation that the employee believes poses a risk to the health of a patient or the public and provides the manager a reasonable opportunity to correct the problem. The manager shall respond in writing to the employee within 7 days acknowledging that the notice was received and provide written notice of any action taken within a reasonable time of receiving the employee's notice. This notice requirement shall not apply if the employee is reasonably certain that the activity, policy, practice, or violation: (i) is known by one or more hospital managers who have had an opportunity to correct the problem and have not done so; (ii) involves the commission of a crime; or (iii) places patient health or safety in severe and immediate danger. The notice requirement

shall not apply if the employee is participating in a survey, investigation, or other activity of a regulatory agency, law enforcement agency, or private accreditation body that was not initiated by the employee. Nothing in this Section prohibits a hospital from training, educating, correcting, or otherwise taking action to improve the performance of employees who report that they are unable or unwilling to perform an assigned task.

Section 40. Private right of action. Any health care facility that violates the provisions of Section 35 may be held liable to the employee affected in an action brought in a court of competent jurisdiction for such legal or equitable relief as may be appropriate to effectuate the purposes of this Act.

Section 45. Regulatory oversight. The Department shall be responsible for ensuring compliance with this Act as a condition of licensure under the Hospital Licensing Act and shall enforce such compliance according to the provisions of the Hospital Licensing Act.

Section 90. The Hospital Licensing Act is amended by changing Section 7 as follows:

(210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

Sec. 7. (a) The Director after notice and opportunity for hearing to the applicant or licensee may deny, suspend, or revoke a permit to establish a hospital or deny, suspend, or revoke a license to open, conduct, operate, and maintain a hospital in any case in which he finds that there has been a substantial failure to comply with the provisions of this Act <u>or the Hospital Report Card Act</u> or the standards, rules, and regulations established by virtue <u>of either of those Acts</u>

thereof.

(b) Such notice shall be effected by registered mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 15 days from the date of such mailing or service, at which time the applicant or licensee shall be given an opportunity for a hearing. Such hearing shall be conducted by the Director or by an employee of the Department designated in writing by the Director as Hearing Officer to conduct the hearing. On the basis of any such hearing, or upon default of the applicant or licensee, the Director shall make a determination specifying his findings and conclusions. In case of a denial to an applicant of a permit to establish a hospital, such determination shall specify the subsection of Section 6 under which the permit was denied and shall contain findings of fact forming the basis of such denial. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision denying, suspending, or revoking a permit or a license shall become final 35 days after it is so mailed or served, unless the applicant or licensee, within such 35 day period, petitions for review pursuant to Section 13.

(c) The procedure governing hearings authorized by this Section shall be in accordance with rules promulgated by the Department and approved by the Hospital Licensing Board. A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director and Hearing Officer. All testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to Section 13. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies.

(d) The Director or Hearing Officer shall upon his own motion, or on the written request of any party to the proceeding, issue subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records, or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of this State, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Director, or Hearing Officer, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum issued as aforesaid shall be served in the same manner as a subpoena issued out of a court.

(e) Any Circuit Court of this State upon the application of the Director, or upon the application of any other party to the proceeding, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the Director or Hearing Officer conducting an investigation or holding a hearing authorized by this Act, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

(f) The Director or Hearing Officer, or any party in an investigation or hearing before the Department, may cause the

depositions of witnesses within the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State, and to that end compel the attendance of witnesses and the production of books, papers, records, or memoranda.

(Source: Laws 1967, p. 3969.)

Section 99. Effective date. This Act takes effect on January 1, 2004.