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1 AMENDMENT TO HOUSE BILL 282

2 AMENDMENT NO. _____. Amend House Bill 282 by replacing
3 everything after the enacting clause with the following:

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

1 registered nursing care requirements for individual patients
2 based on the severity of a patient's illness (including
3 co-morbidities), the need for specialized equipment and
4 technology, the intensity of required nursing interventions,
5 and the complexity of clinical nursing judgment required to
6 design, implement, and evaluate a patient's nursing care plan
7 consistent with professional standards, the ability for
8 self-care (including motor, sensory, and cognitive deficits),
9 the need for advocacy intervention, the licensure of the
10 personnel required for care, the patient care delivery system,
11 the unit's geographic layout, and generally accepted standards
12 of nursing practice, as well as elements reflective of the
13 unique nature of the acute-care hospital's patient population.
14 The system determines the additional number of direct care
15 registered nurses and other licensed and unlicensed nursing
16 staff the hospital must assign, based on the independent
17 professional judgment of the direct care registered nurse, to
18 meet the individual patient needs at all times.

19 Section 5-10. Clinical judgment. "Clinical judgment" means
20 the application of the direct care registered nurse's
21 knowledge, skill, and expertise and experience in making
22 independent decisions about patient care.

23 Section 5-15. Clinical supervision. "Clinical supervision"
24 means the assignment and direction of patient care tasks

1 required in the implementation of nursing care for a patient to
2 other licensed nursing staff or to unlicensed staff by a direct
3 care registered nurse in the exclusive interests of the
4 patient.

5 Section 5-20. Competence. "Competence" means the ability
6 of a direct care registered nurse to act and integrate the
7 knowledge, skills, abilities, and independent professional
8 judgment that underpin safe, therapeutic, and effective
9 patient care.

10 Section 5-25. Critical access hospital. "Critical access
11 hospital" means a health facility designated as such pursuant
12 to a Medicare rural hospital flexibility program as defined in
13 42 U.S.C. 1395x(mm).

14 Section 5-30. Critical care unit or intensive care unit.
15 "Critical care unit" or "intensive care unit" means a hospital
16 unit established to safeguard and protect patients whose
17 severity of illness, including all co-morbidities, requires
18 continuous monitoring and complex interventions by a direct
19 care registered nurse and whose restorative measures and level
20 of nursing intensity requires intensive care through direct
21 observation by a direct care registered nurse, complex
22 monitoring, intensive intricate assessment, specialized rapid
23 intervention, evaluation, and education or teaching of the

1 patient and his or her family or other representatives by a
2 competent and experienced direct care registered nurse. The
3 term includes an intensive care unit, a burn center, a coronary
4 care unit, or an acute respiratory unit.

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

7 Section 5-40. Direct care registered nurse. "Direct care
8 registered nurse" means a competent registered nurse who has
9 accepted a direct care, hands-on patient care assignment to
10 implement medical and nursing regimens while exercising
11 independent professional judgment at all times in the interest
12 of the patient.

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

1 disease, injury, infirmity, or deformity.

2 Section 5-50. Hospital unit or clinical patient care area.
3 "Hospital unit" or "clinical patient care area" means an
4 intensive care critical care unit, burn unit, labor and
5 delivery room (ante-partum and post-partum), newborn nursery,
6 post-anesthesia service area, emergency department, operating
7 room, pediatric unit, step-down or intermediate care unit,
8 specialty care unit, telemetry unit, general medical/surgical
9 care unit, psychiatric unit, rehabilitation unit, or skilled
10 nursing unit.

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

18 Section 5-60. Medical/surgical unit. "Medical/surgical
19 unit" means a unit established to safeguard and protect
20 patients whose severity of illness, including all
21 co-morbidities, requires continuous observation and complex
22 interventions, and whose restorative measures and level of
23 nursing intensity require continuous care by a competent and

1 experienced direct care registered nurse. These units may
2 include general medical and post-surgical patients requiring
3 less than intensive care or step-down care and may include
4 mixed patient populations of diverse diagnoses and diverse age
5 groups excluding pediatric patients.

6 Section 5-65. Nursing intensity. "Nursing intensity"
7 means a direct observation or monitoring by a direct care
8 registered nurse, multiple assessments, specialized
9 intervention, evaluation, education or teaching of the patient
10 and his or her family or other representatives, and
11 documentation.

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

21 Section 5-75. Patient assessment. "Patient assessment"
22 means the utilization of critical thinking, which is the
23 intellectually disciplined process of actively and skillfully

1 interpreting, applying, analyzing, synthesizing, or evaluating
2 data obtained through direct observation and communication
3 with others.

4 Section 5-80. Professional judgment. "Professional
5 judgment" means the intellectual (educated, informed, and
6 experienced) process that a direct care registered nurse
7 exercises in forming an opinion and reaching a clinical
8 decision, in the patient's best interest, based upon analysis
9 of data, information, and scientific evidence.

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

17 Section 5-90. Skilled nursing unit. "Skilled nursing unit"
18 means a functional clinical unit (i) for the provision of
19 skilled nursing care and supportive care to patients whose
20 primary need is for the availability of skilled nursing care on
21 a long-term basis, who are admitted after at least a 48-hour
22 period of continuous inpatient care, and (ii) which provides at
23 least the following: medical, nursing, dietary, and

1 pharmaceutical services and an activity program.

2 Section 5-95. Specialty care unit. "Specialty care unit"
3 means a unit (i) established to safeguard and protect patients
4 whose severity of illness, including all co-morbidities,
5 requires continuous observation and complex interventions,
6 (ii) whose restorative measures and level of nursing intensity
7 require continuous care by a competent and experienced direct
8 care registered nurse, (iii) that provides intensity of care
9 for a specific medical condition or a specific patient
10 population, and (iv) is more comprehensive for the specific
11 condition or disease process than is required on
12 medical/surgical units. The term includes a hospital unit that
13 is not a critical care or intensive care unit, medical/surgical
14 unit, rehabilitation unit, skilled nursing unit, step-down
15 unit, or telemetry unit.

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

1 medical/surgical care.

2 Section 5-105. Telemetry unit. "Telemetry unit" means a
3 unit (i) established to safeguard and protect patients whose
4 severity of illness, including all co-morbidities, requires
5 continuous monitoring and complex intervention, (ii) whose
6 restorative measures and level of nursing intensity require
7 intermediate intensive care by a competent and experienced
8 direct care registered nurse, and (iii) designated for the
9 electronic monitoring, recording, retrieval, and display of
10 cardiac electrical signals.

11 Article 10. Minimum Safe Staffing Ratios

12 Section 10-5. Direct care registered nurse staffing
13 generally.

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

22 (b) No hospital shall assign a direct care registered nurse
23 to a nursing unit or clinical area unless that hospital and the

1 direct care registered nurse determine that the direct care
2 registered nurse has demonstrated current competence in
3 providing care in that area and has also received orientation
4 to that hospital's clinical area sufficient to provide
5 competent safe, therapeutic, and effective nursing care to
6 patients in that area. The policies and procedures of the
7 hospital shall contain the hospital's criteria for making this
8 determination.

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

11 (a) Direct care registered nurse-to-patient ratios
12 represent the maximum number of patients that shall be assigned
13 to one direct care registered nurse at any one time. For
14 purposes of this subsection, "assigned" means that the direct
15 care registered nurse has responsibility for the provision of
16 care to a particular patient within her or his validated
17 competency.

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

21 (c) Only direct care registered nurses providing direct
22 patient care shall be included in the ratios. Nurse
23 Administrators, Nurse Supervisors, Nurse Managers, Charge
24 Nurses, or Case Managers shall not be included in the
25 calculation of the direct care registered nurse-to-patient

1 ratio.

2 (d) Only direct care registered nurses shall relieve other
3 direct care registered nurses during breaks, meals, and other
4 routine, expected absences from the unit.

5 Section 10-15. Direct care registered nurse staffing;
6 emergency department.

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

21 (b) When registered nursing staff, with validated critical
22 care competency, are attending critical care patients in the
23 emergency department, the direct care registered
24 nurse-to-patient ratio shall be 1:2 or fewer critical care
25 patients at all times. A patient in the emergency department

1 shall be considered a critical care patient when the patient
2 meets the criteria for admission to a critical care service
3 area within the hospital. Only direct care registered nurses
4 shall be assigned to critical trauma patients in the emergency
5 department, and a minimum direct care registered nurse to
6 critical trauma patient ratio of 1:1 shall be maintained at all
7 times. A critical trauma patient is a patient who has injuries
8 to an anatomic area that (i) require life saving interventions
9 or (ii) in conjunction with unstable vital signs, pose an
10 immediate threat to life or limb.

11 Section 10-20. Direct care registered nurse staffing;
12 operating room. The surgical services operating room shall have
13 at least one direct care registered nurse assigned to the
14 duties of the circulating nurse and a minimum of one additional
15 person serving as scrub assistant for each patient-occupied
16 operating room.

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

19 (a) The direct care registered nurse-to-patient ratio
20 shall be 1:1 or fewer at all times when assigned to duties of
21 the circulating registered nurse in the operating room or
22 during a cesarean delivery; when assigned to an active labor
23 patient or a patient with medical or obstetrical complications,
24 or when initiating epidural anesthesia in the labor and

1 delivery suite; when assigned to an unstable or in
2 resuscitation period newborn; when assigned to a critical
3 trauma patient in the emergency department; or when assigned to
4 a patient receiving conscious sedation.

5 (b) The direct care registered nurse-to-patient ratio
6 shall be 1:2 or fewer at all times for critical care, intensive
7 care, neonatal intensive care, labor and delivery units,
8 coronary care, acute respiratory care, post-anesthesia
9 recovery (regardless of the type of anesthesia the patient
10 received), and burn units/patient care areas; when assigned to
11 critical patients in the emergency department; or when assigned
12 to immediate post-partum patients.

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

20 (d) The direct care registered nurse-to-patient ratio
21 shall be 1:4 or fewer at all times for a medical/surgical,
22 pre-surgical/admission, ambulatory surgical, psychiatric, or
23 other specialty care unit or patient care area; when assigned
24 to post-partum patients, post-surgical gynecological patients,
25 or mothers only; when assigned to recently born infants; or
26 when assigned to combined post-cesarean delivery mothers and

1 newborns.

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

6 (f) In the event of multiple births, the total number of
7 mothers plus infants assigned to a single direct care
8 registered nurse shall never exceed 6.

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

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

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

1 Section 10-35. Use of rapid response teams as first
2 responders prohibited. In no case may a hospital use rapid
3 response teams as first responders.

4 Section 10-40. Additional nursing staff. In addition to any
5 other direct care registered nurse-to-patient ratio
6 requirements of this Article 10, every hospital shall assign
7 additional nursing staff, such as licensed practical nurses,
8 certified nursing assistants, and other ancillary staff,
9 through the implementation of a valid acuity-based patient
10 classification system for determining nursing care needs of
11 individual patients that reflects the assessment, made by the
12 assigned direct care registered nurse, of patient nursing care
13 requirements and provides for shift-by-shift staffing based on
14 those requirements.

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

1 forth in this Article 10.

2 Section 10-50. Record of staff assignments. Every hospital
3 shall keep a record of the actual direct care registered nurse,
4 licensed practical nurse, certified nursing assistant, and
5 other ancillary staff assignments to individual patients
6 documented on a day-to-day, shift-by-shift basis and must keep
7 copies of its staff assignments on file for a period of 2
8 years.

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

20 Section 10-60. Changes in patient census. Every hospital
21 shall plan for routine fluctuations, such as admissions,
22 discharges, and transfers, in its patient census. If a health
23 care emergency causes a change in the number of patients on a

1 unit, the hospital must demonstrate that immediate and diligent
2 efforts were made to maintain required staffing levels. For
3 purposes of this Section, "health care emergency" means an
4 emergency declared by the federal government or the head of a
5 State or local governmental entity.

6 Section 10-65. Department; study of nursing staff. Not
7 later than 2 years after the effective date of this Act, the
8 Department shall complete and publish a study of licensed and
9 unlicensed hospital nursing staff and its effects on patient
10 safety and care in hospitals.

11 Section 10-70. Prohibited activities.

12 (a) A hospital may not directly assign any unlicensed
13 personnel to perform registered-nurse functions in lieu of care
14 delivered by a registered nurse and may not assign unlicensed
15 personnel to perform registered-nurse functions under the
16 supervision of a direct care registered nurse.

17 (b) Unlicensed personnel may not perform tasks that require
18 the clinical assessment, judgment, and skill of a licensed
19 registered nurse, including, without limitation: nursing
20 activities that require nursing assessment and judgment during
21 implementation; physical, psychological, and social
22 assessments that require nursing judgment, intervention,
23 referral, or follow-up; formulation of a plan of nursing care
24 and evaluation of the patient's response to the care provided;

1 and administration of medications.

2 (c) A hospital may not impose mandatory overtime
3 requirements to meet the staffing ratios required in this
4 Article 10.

5 (d) A hospital may not impose lay-offs of licensed or
6 practical nurses, certified nursing assistants, or other
7 ancillary staff to meet the direct care registered
8 nurse-to-patient ratio requirements of this Article 10.

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

21 Article 15. Direct Care Registered Nurse
22 Functions Relating to Patient Care

23 Section 15-5. Functions generally.

1 (a) A direct care professional nurse, holding a valid
2 license to practice as a registered nurse, employing scientific
3 knowledge and experience in the physical, social, and
4 biological sciences and exercising independent judgment in
5 applying the nursing process, shall directly perform the
6 following essential functions:

7 (1) Continuous and ongoing assessments of a patient's
8 condition based upon the independent professional judgment
9 of the direct care registered nurse.

10 (2) Planning, clinical supervision, implementation,
11 and evaluation of the nursing care provided to each
12 patient. The implementation of nursing care may be assigned
13 by the direct care registered nurse responsible for the
14 patient to other licensed nursing staff or to unlicensed
15 staff, subject to any limitations of the licensure,
16 certification, level of validated competency, or
17 applicable law concerning such staff. In any case, however:

18 (A) The direct care registered nurse assigned to a
19 patient must determine in her or his professional
20 judgment that nursing personnel to be assigned patient
21 care tasks possess the necessary preparation and
22 capability to competently perform the assigned tasks.

23 (B) The direct care registered nurse may assign the
24 implementation of nursing care only when circumstances
25 permit the direct care registered nurse to effectively
26 supervise nursing care provided pursuant to the

1 assignment.

2 (3) Assessment, planning, implementation, and
3 evaluation of patient education, including ongoing
4 discharge teaching of each patient. Any assignment of
5 specific patient education tasks to patient care personnel
6 shall be made by the direct care registered nurse
7 responsible for the patient.

8 (b) The planning and delivery of patient care (i) shall
9 reflect all elements of the nursing process, including
10 assessment, nursing diagnosis, planning, intervention,
11 evaluation, and, as circumstances require, patient advocacy,
12 and (ii) shall be initiated by a direct care registered nurse
13 at the time of a patient's admission to the hospital.

14 (c) The nursing plan for a patient's care shall be
15 discussed with and developed as a result of coordination with
16 the patient, the patient's family, or other representatives of
17 the patient, when appropriate, and staff of other disciplines
18 involved in the care of the patient.

19 (d) The direct care registered nurse shall evaluate the
20 effectiveness of the care plan (i) through assessments based on
21 direct observation of the patient's physical condition and
22 behavior, signs and symptoms of illness, and reactions to
23 treatment and (ii) through communication with the patient and
24 the health care team members. The direct care registered nurse
25 shall modify the plan as needed.

26 (e) Information related to the patient's initial

1 assessment and reassessments, nursing diagnosis, plan,
2 intervention, evaluation, and patient advocacy shall be
3 permanently recorded, as narrative registered nurse progress
4 notes, in the patient's medical record. The practice of
5 "charting by exception" is expressly prohibited.

6 Section 15-10. Patient assessment.

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

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

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

19 (a) The nursing care needs of an individual patient shall
20 be determined by a direct care registered nurse through the
21 process of ongoing patient assessments, nursing diagnosis, and
22 formulation and adjustment of nursing care plans.

23 (b) The prediction of individual patient nursing care needs
24 for prospective assignment of direct care registered nurses

1 shall be based on individual patient assessments by the direct
2 care registered nurse assigned to each patient and in
3 accordance with a documented patient classification system as
4 provided in Article 10.

5 Section 15-20. Independent judgment.

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

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

1 interests of the hospital.

2 Section 15-25. Clinical supervision.

3 (a) In addition to the limitations on assignments of
4 patient care tasks provided in subsections (a) and (b) of
5 Section 10-70, a direct care registered nurse responsible for a
6 patient may assign tasks required in the implementation of
7 nursing care for that patient to other licensed nurses or to
8 unlicensed personnel only if she or he:

9 (1) determines that the personnel to whom the tasks are
10 assigned have statutory authority to define the tasks and
11 possess the necessary training, experience, and capability
12 to competently and safely perform the tasks to be assigned;
13 and

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

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

1 constitute the exercise of professional nursing authority and
2 duty exclusively in the interests of the patient.

3 Article 20. Patient Advocacy

4 Section 20-5. Professional obligation. A registered nurse
5 has the professional obligation and therefore the right to act
6 as a patient's advocate, as circumstances require, by (i)
7 initiating action to improve the patient's health care or to
8 change decisions or activities which, in the professional
9 judgment of the registered nurse, are against the interests or
10 wishes of the patient and (ii) giving the patient the
11 opportunity to make informed decisions about his or her health
12 care before it is provided.

13 Section 20-10. Acceptance of patient care assignments. A
14 direct care registered nurse is always responsible for
15 providing safe, therapeutic, and competent nursing care to
16 assigned patients. Before accepting a patient assignment, a
17 direct care registered nurse must have the necessary knowledge,
18 judgment, skills, and ability to provide the required care. It
19 is the responsibility of the direct care registered nurse to
20 determine whether she or he is clinically competent to perform
21 the nursing care required by patients in a particular clinical
22 unit or with a particular diagnosis, condition, prognosis, or
23 other determinative characteristics of nursing care. If a

1 direct care registered nurse is not clinically competent to
2 perform the care required for a patient to be assigned for
3 nursing care, she or he should not accept the patient care
4 assignment. Such a refusal to accept a patient care assignment
5 is an exercise of the direct care registered nurse's duty and
6 right of patient advocacy.

7 Section 20-15. Acceptance of orders.

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

17 (b) The direct care registered nurse shall assess each such
18 order before implementation to determine whether the order is:
19 (i) in the best interests of the patient; (ii) initiated by a
20 person legally authorized to issue the order; and (iii) in
21 accordance with applicable law and regulation governing
22 nursing care.

23 (c) If a direct care registered nurse determines that the
24 criteria described in items (i) through (iii) of subsection (b)
25 have not been satisfied with respect to a particular order, or

1 has some doubt regarding the meaning or conformance of the
2 order with those criteria, she or he shall seek clarification
3 from the initiator of the order, the patient's physician, or
4 another appropriate medical officer. Clarification must be
5 obtained prior to implementing the order.

6 If, upon clarification, the direct care registered nurse
7 determines that the criteria for implementation of the order
8 have not been satisfied, she or he may refuse to implement the
9 order on the basis that the order is not in the best interests
10 of the patient.

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

14 Section 20-20. Protected speech.

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

24 (b) The speech protected by this Section includes, without
25 limitation, any type of spoken, gestured, written, printed, or

1 electronically communicated expression concerning any matter
2 related to or affecting safe, therapeutic, and competent direct
3 care registered nursing practice at a hospital facility, at
4 facilities within a large health delivery system or corporate
5 chain which includes a hospital, or more generally within the
6 health care industry.

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

15 Protected speech under this Section includes the
16 reporting, whether internally, externally, or publicly, of
17 actions, conduct, events, practices, or other matters that are
18 believed to do any of the following:

19 (1) Constitute a violation of federal, State, or local
20 laws or regulations.

21 (2) Constitute a breach of applicable codes of
22 professional ethics, including the professional and
23 ethical obligations of direct care registered nurses.

24 (3) Concern matters which the reporting direct care
25 registered nurse believes are appropriate or required for
26 disclosure in furtherance and support of the nurse's

1 exercise of patient advocacy duties to improve health care
2 or change decisions or activities which in the professional
3 judgment of the direct care registered nurse are against
4 the interests or wishes of a patient, or to ensure that a
5 patient is afforded a meaningful opportunity to make
6 informed decisions about health care before it is provided.

7 (4) Concern matters described in paragraph (3) made in
8 aid and support of the exercise of patient advocacy duties
9 of direct care registered nurse colleagues.

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

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

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

2 (a) A direct care registered nurse is in a fiduciary
3 relationship to an assigned patient as to matters within the
4 scope of practice and professional responsibility of the nurse
5 to provide safe, therapeutic, and competent nursing care in the
6 interests of the patient. As to such matters, the registered
7 nurse responsible for a patient shall perform the essential
8 functions of a direct care registered nurse exclusively in the
9 interests of the patient and shall not be influenced by the
10 interests of any third party or the directives of any such
11 third party or by motives other than the accomplishment of her
12 or his professional responsibility to provided safe,
13 therapeutic, and competent nursing care in the interests and
14 for the benefit of the patient.

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

25 Section 20-30. Participation in organizations.

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

4 (1) To form, join, or participate in independent
5 hospital-based professional practice committees, general
6 and specialty registered nursing professional
7 associations, patient advocacy organizations, and labor
8 organizations.

9 (2) To seek representation to engage in collective
10 bargaining with her or his hospital employer, or to seek
11 other mutual aid or protection in exercising the
12 professional duty and public health responsibility of
13 patient advocacy.

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

17 Section 20-35. Protected rights.

18 (a) Any person has the right to:

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

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

25 (b) By virtue of her or his professional license and

1 ethical obligations, a direct care registered nurse has a duty
2 and right to act and provide care exclusively in the interests
3 of patients and to act as a patient's advocate, as
4 circumstances require, by (i) initiating action to improve
5 health care or to change decisions or activities which in the
6 professional judgment of the direct care registered nurse are
7 against the interests or wishes of an assigned patient or (ii)
8 giving a patient the opportunity to make informed decisions
9 about health care before it is provided. This Act confirms and
10 creates statutory patient advocacy rights for direct care
11 registered nurses as provided in this Article 20 and made
12 enforceable under Article 25.

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

1 standing to file a complaint and obtain appropriate remedies
2 under Article 25.

3 (d) A direct care registered nurse who is aggrieved by a
4 hospital's interference with the full and free exercise of the
5 nurse's patient advocacy duties has the right to make or file a
6 complaint cooperate, provide evidence, testify, or otherwise
7 support or participate in any investigation or complaint
8 proceeding conducted pursuant to Article 25.

9 Section 20-40. Interference with rights and duties
10 prohibited.

11 (a) It is unlawful for a hospital to interfere with,
12 restrain, coerce, intimidate, or deny the exercise or the
13 attempt to exercise, by any person, of any right provided or
14 protected under this Act.

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

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

25 (d) No hospital employer shall make, adopt, or enforce any

1 rule, regulation, policy, or practice which directly or
2 indirectly authorizes, sanctions, permits, excuses, or
3 encourages any other person to engage in conduct which is
4 likely to prohibit, impede, discourage, intimidate, coerce, or
5 induce in any manner a direct care registered nurse from
6 engaging in protected speech activities or disclosing
7 information as provided in this Article 20.

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

21 (f) A hospital employer, all management personnel employed
22 by a hospital, all personnel with management or supervisory
23 authority employed by a hospital, including the registered
24 nurse administrator, registered nurse manager, or registered
25 nurse supervisor, and all medical personnel who treat patients
26 admitted to hospital nursing unit, whether employed by the

1 hospital or privileged to admit patients through an affiliated
2 medical group or otherwise, are strictly prohibited from
3 interfering with the rights and obligations of a direct care
4 registered nurses to perform the duties of patient advocacy as
5 provided in this Article 20.

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

18 (g) An employee of a hospital employer who has authority to
19 take, direct others to take, recommend, or approve any
20 personnel action of the employer with respect to a direct care
21 registered nurse shall not, with respect to such authority,
22 take or fail to take, or threaten to take or fail to take, any
23 such action with respect to such nurse because the nurse
24 engages in conduct in furtherance of her or his duties and
25 rights as described in this Article 20, including, without
26 limitation, refusing to obey an order that the direct care

1 registered nurse has determined, in the exercise of her or his
2 independent judgment, should be refused in accordance with the
3 direct care registered nurse's duty and right of patient
4 advocacy. Any such action or omission undertaken in the course
5 or scope of employment for a hospital shall be considered an
6 action or omission of the hospital for purposes of this Act.

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

1 Section 20-45. Retaliation or discrimination prohibited. A
2 hospital employer may not discriminate or retaliate in any
3 manner against any patient, employee, or contract employee of
4 the hospital, or any other person, because that person has (i)
5 presented a grievance or complaint, (ii) initiated or
6 cooperated in any investigation or proceeding of any
7 governmental entity, regulatory agency, or private
8 accreditation body, (iii) made a civil claim or demand, or (iv)
9 filed an action relating to the care, services, or conditions
10 of that hospital or of any affiliated or related facility.

11 Article 25. Enforcement of Rights.

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

13 (a) A hospital employer who violates any provision of
14 Article 20 is liable to the aggrieved employee for the
15 following:

16 (1) Damages equal to the amount of:

17 (A) any wages, salary, employment benefits, or
18 other compensation denied or lost to the employee by
19 reason of the violation; or

20 (B) in a case in which wages, salary, employment
21 benefits, or other compensation have not been denied or
22 lost to the employee, any actual monetary loss
23 sustained by the employee as a direct result of the

1 violation.

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

4 (3) An additional amount as liquidated damages equal to
5 the sum of the amount of damages described in paragraph (1)
6 and the interest described in paragraph (2).

7 (b) In addition to the relief set forth in subsection (a),
8 a hospital employer is liable for such equitable relief as may
9 be appropriate, including including the aggrieved employee's
10 employment reinstatement.

11 Section 25-10. Action to recover damages or equitable
12 relief.

13 (a) An action to recover the damages or equitable relief
14 described in Section 25-5 may be maintained against any
15 hospital employer (including a public agency) in any court of
16 competent jurisdiction by any one or more employees for and in
17 behalf of the employee or employees as well as other employees
18 similarly situated.

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

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

25 (d) In the case of an action brought under this Section for

1 a willful violation, the action may be brought within 3 years
2 after the date of the last event constituting the alleged
3 violation for which the action is brought.

4 Section 25-15. Retaliation against patient; presumption.
5 If a hospital engages in any type of discriminatory treatment
6 of a patient by whom, or upon whose behalf, a grievance or
7 complaint has been submitted, directly or indirectly, to any
8 governmental entity, regulatory agency, or private
9 accreditation body, and if that discriminatory treatment
10 occurs within 180 days after the filing of the grievance or
11 complaint, then the hospital's conduct raises a rebuttable
12 presumption that the action was taken by the hospital in
13 retaliation for the filing of the grievance or complaint.

14 Section 25-20. Retaliation against employee; presumption;
15 relief.

16 (a) If a hospital (i) engages in any type of discriminatory
17 treatment of an employee who has presented a grievance or
18 complaint, or initiated, participated in, or cooperated in any
19 investigation or proceeding by or before any governmental
20 entity or private accreditation body, and (ii) had knowledge of
21 the employee's initiation, participation, or cooperation, and
22 if that discriminatory treatment occurs within 180 days after
23 the filing of the grievance or complaint, then the hospital's
24 conduct raises a rebuttable presumption that the

1 discriminatory action was taken by the hospital in retaliation
2 for the filing of the grievance or complaint. For purposes of
3 this Section, "discriminatory treatment of an employee"
4 includes discharge, demotion, suspension, or any other
5 unfavorable change in the terms or conditions of employment, or
6 the threat of any such action.

7 (b) An employee who has been discriminated against as
8 described in subsection (a) is entitled to reinstatement,
9 reimbursement for lost wages and work benefits caused by the
10 acts of the employer, and an award of reasonable attorney's
11 fees and costs as the prevailing party.

12 Section 25-25. Civil penalties.

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

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

24 (c) A hospital found to have violated or aided and abetted
25 a violation of any provision of Article 10 is subject (i) in

1 addition to any other penalties that may be prescribed by law,
2 to enforcement action by the Department, including the use of
3 injunctive relief available to force compliance with that
4 Article or closure of the hospital and (ii) to a civil money
5 penalty assessed by the Department of not more than \$25,000 for
6 each violation and an additional \$10,000 per nursing unit shift
7 until the violation is corrected.

8 (d) The Attorney General shall enforce penalties imposed
9 under this Section in the county in which the violation
10 occurred.

11 (e) The penalties authorized under this Section are in
12 addition to any other penalties that may be imposed under this
13 Act. Penalties collected pursuant to this Section shall be
14 deposited into the General Revenue Fund.

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

22 Article 90. Amendatory Provisions

23 Section 90-5. The Hospital Licensing Act is amended by

1 adding Section 2.5 as follows:

2 (210 ILCS 85/2.5 new)

3 Sec. 2.5. Relationship to Hospital Patient Protection Act.

4 In the case of a conflict between a provision of this Act and a
5 provision of the Hospital Patient Protection Act, the Hospital
6 Patient Protection Act shall control.

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

9 (225 ILCS 65/50-17 new)

10 Sec. 50-17. Relationship to Hospital Patient Protection
11 Act. In the case of a conflict between a provision of this Act
12 and a provision of the Hospital Patient Protection Act, the
13 Hospital Patient Protection Act shall control."