AMENDMENT TO HOUSE BILL 282

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

"Article 1. General

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

Article 5. Definitions

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

Section 5-5. Acuity-based patient classification system. "Acuity-based patient classification system" or "system" means a standardized set of criteria based on scientific data that acts as a measurement instrument and that is used to predict
registered nursing care requirements for individual patients based on the severity of a patient's illness (including co-morbidities), the need for specialized equipment and technology, the intensity of required nursing interventions, and the complexity of clinical nursing judgment required to design, implement, and evaluate a patient's nursing care plan consistent with professional standards, the ability for self-care (including motor, sensory, and cognitive deficits), the need for advocacy intervention, the licensure of the personnel required for care, the patient care delivery system, the unit's geographic layout, and generally accepted standards of nursing practice, as well as elements reflective of the unique nature of the acute-care hospital's patient population. The system determines the additional number of direct care registered nurses and other licensed and unlicensed nursing staff the hospital must assign, based on the independent professional judgment of the direct care registered nurse, to meet the individual patient needs at all times.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 5-100. Step-down unit. "Step-down unit" means a unit (i) established to safeguard and protect patients whose severity of illness, including all co-morbidities, requires continuous monitoring and complex interventions and (ii) whose restorative measures and level of nursing intensity require intermediate intensive care by a competent and experienced direct care registered nurse for the immediate amelioration or remediation of severe pathology for those patients requiring less care than intensive care, but more than is required from
Section 5-105. Telemetry unit. "Telemetry unit" means a unit (i) established to safeguard and protect patients whose severity of illness, including all co-morbidities, requires continuous monitoring and complex intervention, (ii) whose restorative measures and level of nursing intensity require intermediate intensive care by a competent and experienced direct care registered nurse, and (iii) designated for the electronic monitoring, recording, retrieval, and display of cardiac electrical signals.

Article 10. Minimum Safe Staffing Ratios

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

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

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

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

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

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

(c) Only direct care registered nurses providing direct
patient care shall be included in the ratios. Nurse
Administrators, Nurse Supervisors, Nurse Managers, Charge
Nurses, or Case Managers shall not be included in the
calculation of the direct care registered nurse-to-patient
(d) Only direct care registered nurses shall relieve other direct care registered nurses during breaks, meals, and other routine, expected absences from the unit.

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

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

(b) When registered nursing staff, with validated critical care competency, are attending critical care patients in the emergency department, the direct care registered nurse-to-patient ratio shall be 1:2 or fewer critical care patients at all times. A patient in the emergency department
shall be considered a critical care patient when the patient meets the criteria for admission to a critical care service area within the hospital. Only direct care registered nurses shall be assigned to critical trauma patients in the emergency department, and a minimum direct care registered nurse to critical trauma patient ratio of 1:1 shall be maintained at all times. A critical trauma patient is a patient who has injuries to an anatomic area that (i) require life saving interventions or (ii) in conjunction with unstable vital signs, pose an immediate threat to life or limb.

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

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

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

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

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

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

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

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

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

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

(b) Patients shall be cared for only on units where the level of intensity, type of care, and direct care registered nurse-to-patient ratios meet the individual requirements and needs of each patient. The use of acuity-adjustable units or clinical patient care areas is strictly prohibited.
Section 10-35. Use of rapid response teams as first responders prohibited. In no case may a hospital use rapid response teams as first responders.

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

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

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

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

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

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

Section 10-70. Prohibited activities.
(a) A hospital may not directly assign any unlicensed personnel to perform registered-nurse functions in lieu of care delivered by a registered nurse and may not assign unlicensed personnel to perform registered-nurse functions under the supervision of a direct care registered nurse.
(b) Unlicensed personnel may not perform tasks that require the clinical assessment, judgment, and skill of a licensed registered nurse, including, without limitation: nursing activities that require nursing assessment and judgment during implementation; physical, psychological, and social assessments that require nursing judgment, intervention, referral, or follow-up; formulation of a plan of nursing care and evaluation of the patient's response to the care provided;
and administration of medications.

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

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

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

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

Section 15-5. Functions generally.
(a) A direct care professional nurse, holding a valid license to practice as a registered nurse, employing scientific knowledge and experience in the physical, social, and biological sciences and exercising independent judgment in applying the nursing process, shall directly perform the following essential functions:

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

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

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

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

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

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

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

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

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

(a) Patient assessment requires (i) direct observation of the patient's signs and symptoms of illness, reaction to treatment, behavior and physical condition, and (ii) interpretation of information obtained from the patient and others, including other care givers on the health team. Assessment requires data collection by the direct care registered nurse and the analysis, synthesis, and evaluation of such data.
(b) Only a direct care registered nurse is authorized to perform patient assessments. A licensed practical nurse may assist a direct care registered nurse in data collection.

Section 15-15. Determining nursing care needs of patients.
(a) The nursing care needs of an individual patient shall be determined by a direct care registered nurse through the process of ongoing patient assessments, nursing diagnosis, and formulation and adjustment of nursing care plans.
(b) The prediction of individual patient nursing care needs for prospective assignment of direct care registered nurses
shall be based on individual patient assessments by the direct
care registered nurse assigned to each patient and in
accordance with a documented patient classification system as
provided in Article 10.

Section 15-20. Independent judgment.
(a) Competent performance of the essential functions of a
direct care registered nurse as described in subdivisions
(a)(1) through (a)(3) of Section 15-5, Section 15-10, and
Section 15-15 requires the exercise of independent judgment in
the interests of the patient. The exercise of such independent
judgment, unencumbered by the commercial or revenue-generation
priorities of a hospital or other employing entity of a direct
care registered nurse, is necessary to assure safe,
therapeutic, and competent treatment of hospital patients and
is essential to protect the health and safety of the people of
Illinois.

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

Section 15-25. Clinical supervision.

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

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

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

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

Article 20. Patient Advocacy

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

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


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

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

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

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

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

Section 20-20. Protected speech.

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

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

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

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

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

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

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

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

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

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

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

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

Section 20-30. Participation in organizations.
(a) A direct care nurse, as a necessary incident and condition of her or his independent duty and right of patient advocacy, shall have the right to do the following:

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

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

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

Section 20-35. Protected rights.

(a) Any person has the right to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Any employee of a hospital employer who has authority to take, direct others to take, recommend, or approve any report of any incident, conduct, or circumstances involving a direct care registered nurse employed by the hospital to any professional licensing board, disciplinary body, or investigatory function or officer for purposes of complaint, investigation, or imposition of professional discipline or other adverse action affecting the direct care registered nurse's active license status or good standing to practice as a duly licensed registered nurse in the State of Illinois, shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, any such action with respect to such direct care registered nurse because the direct care registered nurse engages in conduct in furtherance of her or his duties and rights as described in this Article 20, including, without limitation, refusing to obey an order that the direct care registered nurse has determined, in the exercise of her or his independent judgment, should be refused in accordance with the registered nurse's duty of patient advocacy.
Section 20-45. Retaliation or discrimination prohibited. A hospital employer may not discriminate or retaliate in any manner against any patient, employee, or contract employee of the hospital, or any other person, because that person has (i) presented a grievance or complaint, (ii) initiated or cooperated in any investigation or proceeding of any governmental entity, regulatory agency, or private accreditation body, (iii) made a civil claim or demand, or (iv) filed an action relating to the care, services, or conditions of that hospital or of any affiliated or related facility.

Article 25. Enforcement of Rights.

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

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

(1) Damages equal to the amount of:

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

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

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

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

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

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

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

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

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

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

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

Section 25-20. Retaliation against employee; presumption;
relief.
(a) If a hospital (i) engages in any type of discriminatory
treatment of an employee who has presented a grievance or
complaint, or initiated, participated in, or cooperated in any
investigation or proceeding by or before any governmental
entity or private accreditation body, and (ii) had knowledge of
the employee's initiation, participation, or cooperation, and
if that discriminatory treatment occurs within 180 days after
the filing of the grievance or complaint, then the hospital's
conduct raises a rebuttable presumption that the
discriminatory action was taken by the hospital in retaliation
for the filing of the grievance or complaint. For purposes of
this Section, "discriminatory treatment of an employee"
includes discharge, demotion, suspension, or any other
unfavorable change in the terms or conditions of employment, or
the threat of any such action.

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

Section 25-25. Civil penalties.

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

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

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

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

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

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

Article 90. Amendatory Provisions

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

(210 ILCS 85/2.5 new)

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

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

(225 ILCS 65/50-17 new)

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