HB 2041

Introduced by
Representatives Prezelski: Gallardo, Lopes, McClure, Sinema, Thrasher

AN ACT

REPEALING TITLE 36, CHAPTER 4, ARTICLE 11, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 11; RELATING TO PATIENT PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal
Title 36, chapter 4, article 11, Arizona Revised Statutes, is repealed.
Sec. 2. Title 36, Arizona Revised Statutes, is amended by adding chapter 11, to read:

CHAPTER 11
PATIENT PROTECTION
ARTICLE 1. GENERAL PROVISIONS

36-1301. Definitions
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "CLINICAL JUDGMENT" MEANS THE APPLICATION OF THE DIRECT CARE REGISTERED NURSE'S KNOWLEDGE, SKILL, EXPERTISE AND EXPERIENCE TO MAKE INDEPENDENT DECISIONS ABOUT PATIENT CARE.
2. "COMPETENCE" MEANS THE ABILITY OF THE DIRECT CARE REGISTERED NURSE TO ACT AND INTEGRATE THE KNOWLEDGE, SKILLS AND INDEPENDENT PROFESSIONAL JUDGMENT THAT ARE THE BASIS OF SAFE AND THERAPEUTIC PATIENT CARE.
3. "CRITICAL ACCESS HOSPITAL" MEANS A FACILITY THAT IS DESIGNATED PURSUANT TO A MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM ESTABLISHED BY THIS STATE AND AS DEFINED IN 42 UNITED STATES CODE SECTION 1395x(mm).
4. "CRITICAL CARE UNIT" MEANS A NURSING UNIT OF AN ACUTE CARE HOSPITAL THAT IS ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF MEDICAL CONDITIONS REQUIRES CONTINUOUS MONITORING AND COMPLEX INTERVENTIONS BY DIRECT CARE REGISTERED NURSES AND WHOSE RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY REQUIRE INTENSIVE CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED NURSE, COMPLEX MONITORING, INTENSIVE INTRICATE ASSESSMENT, EVALUATION, SPECIALIZED RAPID INTERVENTION AND EDUCATION AND TEACHING OF THE PATIENT, THE PATIENT’S FAMILY OR OTHER REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED NURSE. CRITICAL CARE UNIT INCLUDES AN INTENSIVE CARE UNIT, BURN CENTER, CORONARY CARE UNIT AND ACUTE RESPIRATORY UNIT.
5. "DIRECT CARE REGISTERED NURSE” OR "NURSE" MEANS A REGISTERED NURSE WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15 AND WHO HAS ACCEPTED A DIRECT, HANDS-ON PATIENT CARE ASSIGNMENT TO IMPLEMENT MEDICAL AND NURSING REGIMENS.
6. "HOSPITAL" INCLUDES A GENERAL HOSPITAL, A CRITICAL ACCESS HOSPITAL AND A SPECIAL HOSPITAL.
7. "HOSPITAL UNIT” MEANS AN INTENSIVE CARE UNIT, CRITICAL CARE UNIT, BURN UNIT, LABOR AND DELIVERY ROOM, ANTEPARTUM AND POSTPARTUM UNIT, MEDICAL-SURGICAL UNIT, NEWBORN NURSERY, POSTANESTHESIA SERVICE AREA, EMERGENCY DEPARTMENT, OPERATING ROOM, PEDIATRIC UNIT, STEP-DOWN AND INTERMEDIATE CARE UNIT, SPECIALTY CARE UNIT, TELEMETRY UNIT, GENERAL MEDICAL CARE UNIT, PSYCHIATRIC UNIT, REHABILITATION UNIT AND SKILLED NURSING FACILITY UNIT.
8. "MEDICAL-SURGICAL UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL
COMORBIDITIES, RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES
CONTINUOUS CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED
NURSE, MONITORING, MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS,
EVALUATIONS AND EDUCATION AND TEACHING OF THE PATIENT, THE PATIENT'S FAMILY
OR OTHER REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE
REGISTERED NURSE. MEDICAL-SURGICAL UNIT INCLUDES UNITS IN WHICH PATIENTS
REQUIRE LESS THAN INTENSIVE CARE OR STEP-DOWN CARE AND IN WHICH PATIENTS
RECEIVE TWENTY-FOUR HOUR INPATIENT GENERAL MEDICAL CARE OR POSTSURGICAL CARE,
OR BOTH, AND MAY INCLUDE UNITS OF MIXED PATIENT POPULATIONS OF DIVERSE
DIAGNOSES AND DIVERSE AGE GROUPS, EXCLUDING PEDIATRIC PATIENTS.

9. "PATIENT ASSESSMENT" MEANS THE INTELLECTUALLY DISCIPLINED PROCESS
OF ACTIVELY AND SKILLFULLY INTERPRETING, APPLYING, ANALYZING, SYNTHESIZING
AND EVALUATING DATA OBTAINED THROUGH THE DIRECT CARE REGISTERED NURSE'S
DIRECT OBSERVATION AND COMMUNICATION WITH OTHERS.

10. "PATIENT CLASSIFICATION SYSTEM" OR "SYSTEM" MEANS A PATIENT
ACUITY-BASED STANDARDIZED SET OF CRITERIA THAT ARE BASED ON SCIENTIFIC DATA
AND THAT ARE USED TO DETERMINE CARE REQUIREMENTS FOR AN INDIVIDUAL PATIENT
AND TO DETERMINE THE ADDITIONAL NUMBER OF DIRECT CARE REGISTERED NURSES AND
OTHER LICENSED AND UNLICENSED NURSING STAFF THE HOSPITAL MUST ASSIGN TO MEET
THE INDIVIDUAL PATIENT NEEDS AT ALL TIMES.

11. "PROFESSIONAL JUDGMENT" MEANS THE INTELLECTUAL PROCESS THAT THE
DIRECT CARE REGISTERED NURSE USES TO FORM AN OPINION AND TO REACH A CLINICAL
DECISION, IN THE PATIENT'S BEST INTEREST, AND THAT IS BASED ON ANALYSIS OF
DATA, INFORMATION AND SCIENTIFIC EVIDENCE.

12. "REHABILITATION UNIT" MEANS A FUNCTIONAL CLINICAL UNIT THAT
PROVIDES REHABILITATION SERVICES THAT RESTORE AN ILL OR INJURED PATIENT TO
THE HIGHEST LEVEL OF SELF-SUFFICIENCY OR GAINFUL EMPLOYMENT THE PATIENT IS
CAPABLE OF IN THE SHORTEST POSSIBLE TIME, COMPATIBLE WITH THE PATIENT'S
PHYSICAL, INTELLECTUAL AND EMOTIONAL OR PSYCHOLOGICAL CAPABILITIES AND IN
ACCORD WITH PLANNED GOALS AND OBJECTIVES.

13. "SKILLED NURSING FACILITY UNIT" MEANS A FUNCTIONAL CLINICAL UNIT
THAT PROVIDES SKILLED NURSING CARE AND SUPPORTIVE CARE TO PATIENTS WHOSE
PRIMARY NEED IS FOR THE AVAILABILITY OF SKILLED NURSING CARE ON A LONG-TERM
BASIS AND WHO ARE ADMITTED AFTER AT LEAST A FORTY-EIGHT HOUR PERIOD OF
CONTINUOUS INPATIENT CARE AND THAT PROVIDES AT LEAST MEDICAL, NURSING,
DIETARY AND PHARMACEUTICAL SERVICES AND AN ACTIVITY PROGRAM.

14. "SPECIALTY CARE UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD
AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL COMORBIDITIES,
RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES CONTINUOUS CARE
THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED NURSE, MONITORING,
MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS, EVALUATIONS, AND EDUCATION
OR TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR OTHER REPRESENTATIVES BY
A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED NURSE, THAT PROVIDES
INTENSITY OF CARE FOR A SPECIFIC MEDICAL CONDITION OR A SPECIFIC PATIENT
POPULATION, THAT IS MORE COMPREHENSIVE FOR THE SPECIFIC CONDITION OR DISEASE
PROCESS THAN THAT REQUIRED FOR MEDICAL-SURGICAL UNITS AND THAT IS NOT
OTHERWISE COVERED BY OTHER UNITS.

15. "STEP-DOWN AND INTERMEDIATE CARE UNIT" MEANS A UNIT THAT IS
ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS,
INCLUDING ALL COMORBIDITIES, RESTORATIVE MEASURES AND LEVEL OF NURSING
INTENSITY, REQUIRES INTERMEDIATE INTENSIVE CARE THROUGH DIRECT OBSERVATION BY
THE DIRECT CARE REGISTERED NURSE, MONITORING, MULTIPLE ASSESSMENTS,
SPECIALIZED INTERVENTIONS, EVALUATIONS, AND EDUCATION OR TEACHING OF THE
PATIENT, THE PATIENT'S FAMILY OR OTHER REPRESENTATIVES BY A COMPETENT AND
EXPERIENCED DIRECT CARE REGISTERED NURSE, AND THAT PROVIDES CARE TO PATIENTS
WITH MODERATE OR POTENTIALLY SEVERE PHYSIOLOGIC INSTABILITY THAT REQUIRES
TECHNICAL SUPPORT BUT NOT NECESSARILY ARTIFICIAL LIFE SUPPORT. FOR THE
PURPOSES OF THIS PARAGRAPH:

(a) "ARTIFICIAL LIFE SUPPORT" MEANS A SYSTEM THAT USES MEDICAL
TECHNOLOGY TO AID, SUPPORT OR REPLACE A VITAL FUNCTION OF THE BODY THAT HAS
BEEN SERIOUSLY DAMAGED.

(b) "TECHNICAL SUPPORT" MEANS SPECIALIZED EQUIPMENT OR DIRECT CARE, OR
BOTH, INVASIVE MONITORING, TELEMETRY AND MECHANICAL VENTILATION USED FOR THE
IMMEDIATE AMELIORATION OR REMEDIATION OF SEVERE PATHOLOGY FOR THOSE PATIENTS
WHO REQUIRE LESS CARE THAN INTENSIVE CARE BUT MORE THAN THAT REQUIRED FROM
MEDICAL-SURGICAL CARE.

16. "TELEMETRY UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD AND
PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL COMORBIDITIES,
RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES INTERMEDIATE
INTENSIVE CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED
NURSE, MONITORING, MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS,
EVALUATIONS AND EDUCATION OR TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR
OTHER REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED
NURSE, AND THAT IS DESIGNATED FOR THE ELECTRONIC MONITORING, RECORDING,
RETRIEVAL AND DISPLAY OF CARDIAC ELECTRICAL SIGNALS.

36-1302. Staffing ratios
A. A HOSPITAL MUST MAINTAIN THE FOLLOWING MINIMUM DIRECT CARE
REGISTERED NURSE-TO-PATIENT STAFFING RATIOS AS FOLLOWS AT ALL TIMES:
1. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN AN INTENSIVE
CARE UNIT IS 1:2.
2. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A CRITICAL
CARE UNIT IS 1:2.
3. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A NEONATAL
INTENSIVE CARE UNIT IS 1:2.
4. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A BURN UNIT
IS 1:2.
5. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A STEP-DOWN
AND INTERMEDIATE CARE UNIT IS 1:3.
6. The direct care registered nurse-to-patient ratio in the postanesthesia recovery unit of the anesthesia service is 1:2 regardless of the type of anesthesia the patient receives.

7. The direct care registered nurse-to-patient ratio for patients receiving conscious sedation is 1:1.

8. The direct care registered nurse-to-patient ratio for the emergency department is 1:4.

9. The direct care registered nurse-to-patient ratio for critical care patients in the emergency department is 1:2.

10. The direct care registered nurse-to-patient ratio in the labor and delivery suite of the prenatal services is 1:1 for active labor patients and patients with medical or obstetrical complications.

11. The direct care registered nurse-to-patient ratio is 1:1 at all times for initiating epidural anesthesia and circulation for cesarean delivery.

12. The direct care registered nurse-to-patient ratio for patients in immediate postpartum is 1:2.

13. The direct care registered nurse-to-patient ratio for antepartum patients who are not in active labor is 1:3.

14. The direct care registered nurse-to-patient ratio for patients in a postpartum area of the prenatal service is one nurse to three mother-baby couples. For multiple births, the total number of mother and her infants assigned to a single direct care registered nurse shall not exceed six.

15. For postpartum areas in which the direct care registered nurse's assignment consists of mothers only, the direct care registered nurse-to-patient ratio is 1:4.

16. The direct care registered nurse-to-patient ratio for postpartum women or postsurgical gynecological patients only is 1:4.

17. The well baby nursery direct care registered nurse ratio is 1:5.

18. The direct care registered nurse-to-patient ratio for unstable newborns and those in the resuscitation period as assessed by the direct care registered nurse is 1:1.

19. The direct care registered nurse-to-patient ratio for recently born infants is 1:4.

20. The direct care registered nurse-to-patient ratio for pediatrics is 1:3.

21. The direct care registered nurse-to-patient ratio in telemetry is 1:3.

22. The direct care registered nurse-to-patient ratio in medical surgical is 1:4.

23. The direct care registered nurse-to-patient ratio for presurgical admissions units or ambulatory surgical units is 1:4.

24. The direct care registered nurse-to-patient ratio in other specialty units is 1:4.
25. The direct care registered nurse-to-patient ratio in psychiatric units is 1:4.

26. The direct care registered nurse-to-patient ratio in a rehabilitation unit or a skilled nursing facility is 1:5.

B. At a minimum, an operating room must have at least one direct care registered nurse assigned to the duties of the circulating registered nurse and a minimum of one additional person as a scrub assistant for each patient.

C. 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 must be maintained at all times.

D. Triage, radio or specialty-flight registered nurses do not count in the calculation of the direct care registered nurse-to-patient ratio in an emergency department.

36-1303. Patient classification system; review committees

A. In addition to the direct care registered nurse-to-patient ratios prescribed in section 36-1302, each hospital must implement a patient classification system to determine the patient care needs of individual patients. The hospital must assign additional direct care registered nurses and other licensed or unlicensed staff as indicated by the patient classification system. The patient classification system must reflect the assessment made by the assigned direct care registered nurse of patient nursing care requirements and provide for shift-by-shift staffing based on those requirements. The assessment must include the severity of the patient's illness, the need for specialized equipment and technology and the intensity of required nursing interventions that is 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 hospital unit's geographic layout, generally accepted standards of nursing practice and elements that reflect the unique nature of the acute care hospital's patient population.

B. The ratios determined pursuant to section 36-1302 are the minimum number of direct care registered nurses who must be assigned to direct patient care. The hospital must assign additional direct care registered nursing staff in excess of these prescribed ratios to direct patient care according to the hospital's implementation of a valid patient classification system for determining nursing care requirements.

C. The reliability of the patient classification system for validating staffing requirements must be reviewed at least annually by a committee appointed by the chief nursing officer to determine whether or not the system accurately measures individual patient care needs. At least half of the members of this committee must be unit-specific competent direct care registered nurses who provide direct patient care. If direct care registered nurses are represented under a collective bargaining agreement, the
APPOINTMENT MUST BE MADE BY THE AUTHORIZED COLLECTIVE BARGAINING AGENT. IN
CASE OF A DISPUTE, THE DIRECT CARE REGISTERED NURSE ASSESSMENT PREVAILS.

D. IF THE REVIEW CONDUCTED PURSUANT TO SUBSECTION C OF THIS SECTION
REVEALS THAT ADJUSTMENTS ARE NECESSARY TO ASSURE ACCURACY IN MEASURING
PATIENT CARE NEEDS, THESE ADJUSTMENTS MUST BE IMPLEMENTED WITHIN THIRTY DAYS
AFTER THAT DETERMINATION.

36-1304. Minimum staffing requirements; prohibitions
A. EACH HOSPITAL MUST PROVIDE MINIMUM STAFFING BY DIRECT CARE
REGISTERED NURSES ACCORDING TO THE GENERAL REQUIREMENTS OF THIS SECTION AND
THE CLINICAL UNIT DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS PRESCRIBED
PURSUANT TO SECTION 36-1302. STAFFING FOR PATIENT CARE TASKS NOT REQUIRING A
DIRECT CARE REGISTERED NURSE IS NOT INCLUDED IN THESE RATIOS AND MUST BE
DETERMINED PURSUANT TO THE PATIENT CLASSIFICATION SYSTEM PRESCRIBED PURSUANT
TO SECTION 36-1303.

B. A HOSPITAL SHALL NOT 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 NURSE HAS DEMONSTRATED CURRENT COMPETENCE
IN PROVIDING CARE IN THAT AREA AND HAS ALSO RECEIVED AND COMPLETED
ORIENTATION TO THAT HOSPITAL'S CLINICAL AREA SUFFICIENT TO PROVIDE SAFE,
THERAPEUTIC AND COMPETENT CARE TO PATIENTS IN THAT AREA. THE POLICIES AND
PROCEDURES OF THE HOSPITAL MUST CONTAIN THE HOSPITAL'S CRITERIA FOR MAKING
THIS DETERMINATION.

C. DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS REPRESENT THE
MAXIMUM NUMBER OF PATIENTS THAT CAN BE ASSIGNED TO ONE DIRECT CARE REGISTERED
NURSE AT ALL TIMES. FOR THE PURPOSES OF THIS SUBSECTION, "ASSIGNED" MEANS
THAT THE DIRECT CARE REGISTERED NURSE IS RESPONSIBLE FOR PROVIDING CARE TO A
PARTICULAR PATIENT WITHIN THE NURSE'S VALIDATED COMPETENCY.

D. 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 IS PROHIBITED.

E. ONLY DIRECT CARE REGISTERED NURSES WHO PROVIDE DIRECT PATIENT CARE
SHALL BE INCLUDED IN THE RATIOS. NURSE ADMINISTRATORS, NURSE SUPERVISORS,
NURSE MANAGERS, CHARGE NURSES AND CASE MANAGERS SHALL NOT BE INCLUDED IN THE
CALCULATION OF THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO. ONLY
DIRECT CARE REGISTERED NURSES SHALL RELIEVE OTHER DIRECT CARE REGISTERED
NURSES DURING BREAKS, MEALS AND OTHER ROUTINE, EXPECTED ABSENCES FROM THE
UNIT.

36-1305. Care units; identification; requirements
A. IDENTIFYING A UNIT BY A NAME OR TERM OTHER THAN THOSE USED PURSUANT
TO SECTION 36-1302 DOES NOT AFFECT THE REQUIREMENT TO STAFF AT THE DIRECT
CARE REGISTERED NURSE-TO-PATIENT RATIOS IDENTIFIED FOR THE LEVEL OF INTENSITY
OR TYPE OF CARE PRESCRIBED IN SECTION 36-1304.

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.
36-1306. Prohibited activities

A. A hospital shall not directly assign any unlicensed personnel to perform direct care registered nurse functions instead of care delivered by a licensed registered nurse and shall not assign unlicensed personnel to perform direct care registered nurse functions under the supervision of a direct care registered nurse.

B. Unlicensed personnel shall not perform tasks that require the clinical assessment, judgment and skill of a licensed registered nurse, including the following:
   1. Nursing activities that require nursing assessment and judgment during implementation.
   2. Physical, psychological and social assessments that require nursing judgment, intervention, referral or follow-up.
   3. Formulation of a plan of nursing care.
   4. Evaluation of the patient's response to the care provided.
   5. Administration of medications.

C. A hospital may not impose mandatory overtime requirements to meet the staffing ratios prescribed pursuant to section 36-1302.

36-1307. Hospital nursing practice standards

A. A direct care registered nurse who is employed in a hospital must:
   1. Provide safe, therapeutic and competent nursing care to assigned patients.
   2. Assess each medical order, and before acting on the order, determine if the order is in the best interest of the patient and if it was initiated by a person legally authorized to initiate such an order. A direct care registered nurse who refuses to implement an order that the nurse determines is not in the patient's best interest is an exercise of the direct care registered nurse duty and right as a patient advocate.
   3. Perform continuous and ongoing patient assessments of the patient's condition based on the independent professional judgment of the direct care registered nurse. Patient assessment requires direct observation by the direct care registered nurse of the patient's signs and symptoms of illness, reaction to treatment, behavior and physical condition, and interpretation of information obtained from the patient and others, including other caregivers on the health team. Only a direct care registered nurse shall perform patient assessments. Licensed vocational nurses may assist direct care registered nurses in data collection. For the purposes of this paragraph, "assessment" means the collection of data by the direct care registered nurse and the analysis, synthesis and evaluation of that data.
   4. Plan, implement and evaluate the nursing care provided to each patient. The planning and delivery of patient care must reflect all elements of the nursing process, including assessment, nursing diagnosis, planning, intervention, evaluation and, as circumstances require, patient advocacy, and must be initiated by a direct care registered nurse at the time of admission.
B. 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 IF THE NURSE IS CLINICALLY COMPETENT TO PERFORM THE REQUIRED NURSING CARE IN A PARTICULAR CLINICAL UNIT AND WITH A PARTICULAR DIAGNOSIS, CONDITION, PROGNOSIS OR OTHER DETERMINATIVE CHARACTERISTICS OF NURSING CARE. IF THE DIRECT CARE REGISTERED NURSE IS NOT CLINICALLY COMPETENT TO PERFORM THE CARE REQUIRED, THE NURSE SHALL NOT ACCEPT THE PATIENT CARE ASSIGNMENT. THE REFUSAL TO ACCEPT A PATIENT CARE ASSIGNMENT IS AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT OF PATIENT ADVOCACY.

36-1308. Consumer information; toll-free telephone number

A. A HOSPITAL THAT IS SUBJECT TO THIS ARTICLE MUST POST IN A PLACE THAT IS EASILY VISIBLE TO THE PUBLIC THE FOLLOWING FOR EACH SHIFT OF EACH DAY:

1. THE RATIO OF DIRECT CARE REGISTERED NURSING STAFF TO PATIENTS ON EACH UNIT.
2. THE STAFFING REQUIREMENTS AS DETERMINED BY THE PATIENT CLASSIFICATION SYSTEM FOR EACH UNIT.
3. THE ACTUAL STAFF AND STAFF RATIO PROVIDED.
4. THE VARIANCE BETWEEN THE REQUIRED AND THE ACTUAL STAFFING PATTERNS.

B. A HOSPITAL MUST PROVIDE EACH PATIENT WHO IS ADMITTED TO THE HOSPITAL FOR INPATIENT CARE WITH THE TOLL-FREE TELEPHONE NUMBER PRESCRIBED BY THE DEPARTMENT OF HEALTH SERVICES TO REPORT INADEQUATE STAFFING OR CARE.

36-1309. Disciplinary action; civil penalty

A hospital that violates this article is subject to suspension or revocation of its license to operate and is subject to a civil penalty of not more than twenty-five thousand dollars for each violation of this article and an additional civil penalty of ten thousand dollars per nursing unit shift until the violation is corrected.

ARTICLE 2. PATIENT SAFETY AND ADVOCACY

36-1321. Nurses; patient advocacy; duties and rights; definition

A DIRECT CARE REGISTERED NURSE HAS THE PROFESSIONAL OBLIGATION AND THEREFORE THE RIGHT TO ACT AS THE PATIENT'S ADVOCATE, AS CIRCUMSTANCES REQUIRE, BY INITIATING ACTION TO IMPROVE HEALTH CARE OR TO CHANGE DECISIONS OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT OF THE DIRECT CARE 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.

36-1322. Duty to act; protection against retaliation; definition

A. A HOSPITAL SHALL NOT DISCHARGE FROM DUTY OR OTHERWISE RETALIATE AGAINST A DIRECT CARE REGISTERED NURSE WHO IS RESPONSIBLE FOR PATIENT CARE
AND WHO REPORTS UNSAFE PRACTICES OR VIOLATIONS OF HOSPITAL POLICIES OR APPLICABLE LAWS.

B. ALL DIRECT CARE REGISTERED NURSES AND OTHER HEALTH PROFESSIONALS WHO ARE RESPONSIBLE FOR PATIENT CARE HAVE THE RIGHT OF FREE SPEECH AND ARE PROTECTED IN THE EXERCISE OF THAT RIGHT AS PROVIDED IN THIS ARTICLE, BOTH DURING WORKING HOURS AND DURING OFF-DUTY HOURS.

C. THE FREE SPEECH PROTECTED BY THIS SECTION INCLUDES ANY TYPE OF SPOKEN, GESTURED, WRITTEN, PRINTED OR ELECTRONICALLY COMMUNICATED EXPRESSION CONCERNING ANY MATTER RELATED TO OR AFFECTING SAFE, THERAPEUTIC AND COMPETENT DIRECT NURSING CARE BY DIRECT CARE REGISTERED NURSES AND OTHER HEALTH CARE PROFESSIONALS GENERALLY WITHIN THE HEALTH CARE INDUSTRY.

D. THE CONTENT OF SPEECH PROTECTED BY THIS SECTION INCLUDES:
   1. THE FACTS AND CIRCUMSTANCES OF PARTICULAR EVENTS.
   2. PATIENT CARE PRACTICES.
   3. INSTITUTIONAL ACTIONS, POLICIES AND CONDITIONS THAT MAY FACILITATE OR IMPEDE COMPETENT AND SAFE NURSING PRACTICE AND PATIENT CARE.
   4. ADVERSE PATIENT OUTCOMES OR INCIDENTS.
   5. SENTINEL AND REPORTABLE EVENTS.
   6. ARGUMENTS IN SUPPORT OF OR AGAINST HOSPITAL POLICIES OR PRACTICES RELATING TO THE DELIVERY OF NURSING CARE BY A DIRECT CARE REGISTERED NURSE AND OTHER HEALTH PROFESSIONAL.

E. PROTECTED SPEECH UNDER THIS SECTION INCLUDES THE INTERNAL, EXTERNAL AND PUBLIC REPORTING OF ACTIONS, CONDUCT, EVENTS, PRACTICES AND OTHER MATTERS THAT ARE BELIEVED TO:
   1. CONSTITUTE A VIOLATION OF FEDERAL, STATE OR LOCAL LAWS.
   2. CONSTITUTE A BREACH OF APPLICABLE CODES OF PROFESSIONAL ETHICAL OBLIGATIONS APPLICABLE TO DIRECT CARE REGISTERED NURSES AND OTHER HEALTH PROFESSIONALS.
   3. CONCERN MATTERS THAT THE REPORTING DIRECT CARE REGISTERED NURSE BELIEVES ARE APPROPRIATE OR REQUIRED TO:
      (a) FURTHER AND SUPPORT THE DIRECT CARE REGISTERED NURSE'S EXERCISE OF PATIENT ADVOCACY DUTIES IN ORDER TO IMPROVE HEALTH CARE OR TO CHANGE DECISIONS OR ACTIVITIES THAT IN THE DIRECT CARE REGISTERED NURSE'S PROFESSIONAL JUDGMENT ARE AGAINST THE INTERESTS OR WISHES OF A PATIENT.
      (b) ENSURE THAT A PATIENT IS AFFORDED A MEANINGFUL OPPORTUNITY TO MAKE INFORMED DECISIONS ABOUT HEALTH CARE BEFORE IT IS PROVIDED.
   4. CONCERN MATTERS AS DESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION MADE IN AID AND SUPPORT OF THE EXERCISE OF PATIENT ADVOCACY DUTIES OF DIRECT CARE REGISTERED NURSE COLLEAGUES.

F. THIS SECTION DOES NOT AUTHORIZE DISCLOSURE OF PRIVATE AND CONFIDENTIAL PATIENT INFORMATION UNLESS DISCLOSURE IS:
   1. REQUIRED BY LAW.
   2. COMPelled BY PROPER LEGAL PROCESS.
   3. CONSENTED TO BY THE PATIENT.
4. PROVIDED IN CONFIDENCE TO REGULATORY OR ACCREDITATION AGENCIES OR TO OTHER GOVERNMENT ENTITIES FOR INVESTIGATORY PURPOSES.

5. PURSUANT TO FORMAL OR INFORMAL COMPLAINTS OF UNLAWFUL OR IMPROPER PRACTICES FOR PURPOSES OF ACHIEVING CORRECTIVE AND REMEDIAL ACTION.

6. ENGAGING IN FREE SPEECH ACTIVITY AS DESCRIBED IN THIS SECTION CONSTITUTES AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT OF PATIENT ADVOCACY. THE SUBJECT MATTER OF FREE 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.

7. FOR THE PURPOSES OF THIS ARTICLE, "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-3201.

36-1323. Ethical and fiduciary duties

A. A DIRECT CARE REGISTERED NURSE IS IN A FIDUCIARY RELATION 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 THESE MATTERS, THE DIRECT CARE 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 INTERESTED THIRD PARTY OR BY MOTIVES OTHER THAN THE ACCOMPLISHMENT OF THE NURSE'S PROFESSIONAL RESPONSIBILITY TO PROVIDE SAFE AND COMPETENT NURSING CARE IN THE INTERESTS OF AND FOR THE BENEFIT OF THE PATIENT.

B. A DIRECT CARE REGISTERED NURSE SHALL NOT BE INFLUENCED BY THE NURSE'S OWN PERSONAL INTERESTS OR BY THE INTERESTS OR DEMANDS OF A THIRD PARTY THAT CONFLICT WITH THE INTERESTS OF AN ASSIGNED PATIENT IN PERFORMING THE ESSENTIAL REGISTERED NURSING FUNCTIONS. THE REFUSAL BY A DIRECT CARE REGISTERED NURSE TO ENGAGE IN A CONFLICT OF INTEREST WITH RESPECT TO NURSING CARE FOR WHICH THE NURSE IS RESPONSIBLE CONSTITUTES AN EXERCISE OF THE REGISTERED NURSE DUTY AND RIGHT OF PATIENT ADVOCACY.

36-1324. Protected rights

A. A PERSON HAS THE RIGHT TO:

1. OPPOSE POLICIES, PRACTICES OR ACTIONS OF ANY HOSPITAL OR OTHER HEALTH CARE INSTITUTION THAT ARE ALLEGED TO VIOLATE, BREACH OR FAIL TO COMPLY WITH THIS ARTICLE.

2. COOPERATE, PROVIDE EVIDENCE, TESTIFY OR OTHERWISE SUPPORT OR PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE.

B. BY VIRTUE OF THEIR PROFESSIONAL LICENSE AND ETHICAL OBLIGATIONS, DIRECT CARE REGISTERED NURSES HAVE A DUTY AND RIGHT TO ACT AND PROVIDE CARE EXCLUSIVELY IN THE INTERESTS OF PATIENTS AND TO ACT AS THE PATIENT'S ADVOCATE, AS CIRCUMSTANCES REQUIRE. BY INITIATING ACTION TO IMPROVE HEALTH CARE OR TO CHANGE DECISIONS OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT OF THE DIRECT CARE REGISTERED NURSES ARE AGAINST THE INTERESTS OR WISHES OF ASSIGNED PATIENTS, OR BY GIVING THE PATIENT THE OPPORTUNITY TO MAKE INFORMED DECISIONS ABOUT HEALTH CARE BEFORE IT IS PROVIDED.
C. A patient of a hospital or other health care institution aggrieved by that hospital's or institution's interference with the full and free exercise of patient advocacy duties by a direct care registered nurse may make or file a complaint and may cooperate, provide evidence, testify or otherwise support or participate in any investigation or complaint proceeding brought pursuant to this article. A patient is aggrieved 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 or institution's interference with patient advocacy rights of a direct care registered nurse health professional. 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 this article.

D. A direct care registered nurse of a hospital or other health care institution aggrieved by that hospital's or institution's interference with the full and free exercise of patient advocacy duties may make or file a complaint and may cooperate, provide evidence, testify or otherwise support or participate in any investigation or complaint proceeding pursuant to this article.

36-1325. Prohibited acts
A. It is unlawful for any hospital or other health care institution to:

1. Interfere with, restrain, coerce, intimidate or deny the exercise of or the attempt to exercise by any person of any right to act pursuant to this article.

2. Discriminate or retaliate against any person for opposing any policy, practice or action of the hospital or other health care institution that is alleged to violate, breach or fail to comply with this article.

3. Make, adopt or enforce any policy or practice that directly or indirectly prohibits, impedes, discourages, intimidates, coerces or induces in any manner a direct care registered nurse or other health professional from engaging in free speech activities or disclosing information as prescribed in this article.

4. Make, adopt or enforce any policy or practice that directly or indirectly authorizes, sanctions, permits, excuses or encourages any other person to engage in conduct that is likely to prohibit, impede, discourage, intimidate, coerce or induce in any manner a direct care registered nurse or other health professional from engaging in free speech activities or disclosing information as provided in this article.

B. A hospital or other health care institution shall not use technology that:

1. Limits the direct care registered nurse 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 FROM ACTING AS PATIENT ADVOCATE IN THE EXCLUSIVE INTEREST OF THE PATIENT.

2. IS SKILL DEGRADING.
3. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE WHO PROVIDES INDIVIDUALIZED PATIENT CARE.
4. OVERRIDES THE DIRECT CARE REGISTERED NURSE'S INDEPENDENT PROFESSIONAL JUDGMENT.
5. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE'S RIGHT TO ADVOCATE IN THE EXCLUSIVE INTEREST OF THE PATIENT.

C. THE PROHIBITION TO INTERFERE WITH A DIRECT CARE REGISTERED NURSE'S RIGHTS AND DUTIES PRESCRIBED IN THIS ARTICLE APPLIES TO THE FOLLOWING:
1. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER.
2. ALL MANAGEMENT PERSONNEL EMPLOYED BY A HOSPITAL OR OTHER HEALTH CARE INSTITUTION.
3. ALL PERSONNEL WITH MANAGEMENT OR SUPERVISORY AUTHORITY EMPLOYED BY A HOSPITAL OR OTHER HEALTH CARE INSTITUTION, INCLUDING THE REGISTERED NURSE ADMINISTRATOR, REGISTERED NURSE MANAGER AND REGISTERED NURSE SUPERVISOR.
4. ALL MEDICAL PERSONNEL WHO TREAT PATIENTS ADMITTED TO HOSPITAL NURSING UNITS, WHETHER EMPLOYED BY THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION.
5. ANY PERSON WHO IS PRIVILEGED TO ADMIT PATIENTS, THROUGH AN AFFILIATED MEDICAL GROUP OR OTHERWISE.

D. PROHIBITED INTERFERENCE WITH PATIENT ADVOCACY DUTIES OF A DIRECT CARE REGISTERED NURSE INCLUDES:
1. CONDUCT, ACTIONS OR OMISSIONS TO ACT THAT DIRECTLY OR INDIRECTLY ARE LIKELY TO PROHIBIT, IMPED, 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.
2. ANY ACT OF PROHIBITED INTERFERENCE COMMITTED BY AN INDIVIDUAL WITHIN THE COURSE AND SCOPE OF EMPLOYMENT AS MANAGEMENT, NURSING SERVICE OR MEDICAL PERSONNEL FOR A HOSPITAL.

E. ANY EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION 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 OR OTHER HEALTH PROFESSIONAL, WITH RESPECT TO THAT AUTHORITY, SHALL NOT TAKE OR FAIL TO TAKE, OR THREATEN TO TAKE OR FAIL TO TAKE, ANY ACTION WITH RESPECT TO A NURSE OR OTHER HEALTH PROFESSIONAL BECAUSE THE NURSE OR OTHER HEALTH PROFESSIONAL ENGAGES IN CONDUCT IN FURTHERANCE OF THAT PERSON'S DUTIES AND RIGHTS AS PRESCRIBED IN THIS ARTICLE, INCLUDING REFUSING TO OBEY AN ORDER THAT THE DIRECT CARE REGISTERED NURSE HAS DETERMINED, IN THE EXERCISE OF THE NURSE'S INDEPENDENT JUDGMENT, SHOULD BE REFUSED IN ACCORDANCE WITH THE REGISTERED NURSE'S DUTY AND RIGHT OF PATIENT ADVOCACY. ANY ACTION OR OMISSION TO ACT UNDERTAKEN IN THE COURSE OR SCOPE OF EMPLOYMENT FOR A HOSPITAL OR OTHER HEALTH CARE INSTITUTION IS CONSIDERED AN
ACTION OR OMISSION OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION FOR
PURPOSES OF THIS ARTICLE.

F. AN EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION
EMPLOYER WHO HAS AUTHORITY TO TAKE, DIRECT OTHERS TO TAKE, RECOMMEND OR
APPROVE ANY REPORT OF ANY INCIDENT, CONDUCT OR CIRCUMSTANCES THAT INVOLVE A
DIRECT CARE REGISTERED NURSE WHO IS EMPLOYED BY THE HOSPITAL OR OTHER HEALTH
CARE INSTITUTION TO ANY PROFESSIONAL LICENSING BOARD, DISCIPLINARY BODY OR
INVESTIGATORY FUNCTION OR OFFICER FOR PURPOSES OF A COMPLAINT, INVESTIGATION
OR IMPOSITION OF PROFESSIONAL DISCIPLINE OR OTHER ADVERSE ACTION AFFECTING
THE DIRECT CARE REGISTERED NURSE AND OTHER HEALTH PROFESSIONAL'S ACTIVE
LICENSE STATUS OR GOOD STANDING TO PRACTICE AS A DUTY LICENSED REGISTERED
NURSE OR OTHER HEALTH PROFESSIONAL IN THIS STATE, WITH RESPECT TO SUCH
AUTHORITY, SHALL NOT TAKE OR FAIL TO TAKE, OR THREATEN TO TAKE OR FAIL TO
TAKE, ANY ACTION WITH RESPECT TO THE DIRECT CARE REGISTERED NURSE OR OTHER
HEALTH PROFESSIONAL BECAUSE THE DIRECT CARE REGISTERED NURSE OR OTHER HEALTH
PROFESSIONAL ENGAGES IN CONDUCT IN FURTHERANCE OF THAT PERSON'S DUTIES AND
RIGHTS AS PRESCRIBED IN THIS ARTICLE, INCLUDING WITHOUT LIMITATION REFUSING
TO OBEY AN ORDER THAT THE DIRECT CARE REGISTERED NURSE DETERMINES, IN THE
EXERCISE OF THE NURSE'S INDEPENDENT JUDGMENT, SHOULD BE REFUSED IN ACCORDANCE
WITH THE REGISTERED NURSE DUTY OF PATIENT ADVOCACY.

36-1326. Retaliation; discrimination; prohibition

A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER SHALL NOT
DISCRIMINATE OR RETALIATE IN ANY MANNER AGAINST ANY PATIENT, EMPLOYEE OR
CONTRACT EMPLOYEE OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION OR ANY
OTHER PERSON BECAUSE THAT PERSON HAS:
1. PRESENTED A GRIEVANCE OR COMPLAINT.
2. INITIATED OR COOPERATED IN ANY INVESTIGATION OR PROCEEDING OF ANY
GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE ACCREDITATION BODY.
3. MADE A CIVIL CLAIM OR DEMAND OR FILED AN ACTION RELATING TO THE
CARE, SERVICES OR CONDITIONS OF THAT HOSPITAL OR OF ANY AFFILIATED OR RELATED
FACILITIES.

36-1327. Enforcement by private action

A. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER THAT VIOLATES
THIS ARTICLE IS LIABLE TO ANY AGGRIEVED EMPLOYEE FOR:
1. DAMAGES EQUAL TO THE AMOUNT OF ANY WAGES, SALARY, EMPLOYMENT
BENEFITS OR OTHER COMPENSATION DENIED OR LOST TO THE EMPLOYEE BY REASON OF
THE EMPLOYER'S VIOLATION OF THIS ARTICLE. IF WAGES, SALARY, EMPLOYMENT
BENEFITS OR OTHER COMPENSATION HAVE NOT BEEN DENIED OR LOST TO THE EMPLOYEE,
THE EMPLOYER IS LIABLE FOR ANY ACTUAL MONETARY LOSSES SUSTAINED BY THE
EMPLOYEE AS A DIRECT RESULT OF THE VIOLATION.
2. INTEREST ON THE AMOUNT DESCRIBED IN PARAGRAPH 1, CALCULATED AT THE
PREVAILING INTEREST RATE.
3. AN ADDITIONAL AMOUNT AS LIQUIDATED DAMAGES EQUAL TO THE SUM OF THE
AMOUNT OF DAMAGES DESCRIBED IN PARAGRAPH 1 AND THE INTEREST PRESCRIBED IN
PARAGRAPH 2.
4. EQUITABLE RELIEF AS MAY BE APPROPRIATE, INCLUDING EMPLOYMENT, REINSTATEMENT AND PROMOTION.

B. AN ACTION TO RECOVER THE DAMAGES OR EQUITABLE RELIEF PURSUANT TO THIS SECTION MAY BE BROUGHT AGAINST ANY HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER, INCLUDING A PUBLIC AGENCY, IN ANY COURT OF COMPETENT JURISDICTION BY ANY ONE OR MORE EMPLOYEES FOR AND IN BEHALF OF THE EMPLOYEES AND OTHER EMPLOYEES SIMILARLY SITUATED.

C. THE COURT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL AWARD TO A PREVAILING PLAINTIFF REASONABLE ATTORNEY FEES, REASONABLE EXPERT WITNESS FEES AND OTHER COSTS OF THE ACTION.

D. THIS SECTION DOES NOT LIMIT THE RIGHTS AND REMEDIES AVAILABLE UNDER SECTION 23-1501 TO AN EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION.

36-1328. Remedial standards

A. ANY TYPE OF DISCRIMINATORY TREATMENT OF A PATIENT BY WHOM, OR ON WHOSE BEHALF, A GRIEVANCE OR COMPLAINT HAS BEEN SUBMITTED, DIRECTLY OR INDIRECTLY, TO ANY GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE ACCREDITATION BODY RECEIVED BY A HEALTH FACILITY ADMINISTRATOR WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE FILING OF THE GRIEVANCE OR COMPLAINT SHALL RAISE A REBUTTABLE PRESUMPTION THAT THE ACTION WAS TAKEN BY THE HOSPITAL IN RETALIATION FOR THE FILING OF THE GRIEVANCE OR COMPLAINT.

B. ANY DISCRIMINATORY TREATMENT OF AN EMPLOYEE WHO HAS PRESENTED A GRIEVANCE OR COMPLAINT OR WHO HAS INITIATED OR PARTICIPATED OR COOPERATED IN ANY INVESTIGATION OR PROCEEDING OF ANY GOVERNMENTAL ENTITY OR PRIVATE ACCREDITATION BODY, IF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER HAD KNOWLEDGE OF THE EMPLOYEE’S INITIATION, PARTICIPATION OR COOPERATION, ESTABLISHES A REBUTTABLE PRESUMPTION THAT THE DISCRIMINATORY ACTION WAS TAKEN BY THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER IN RETALIATION, IF THE DISCRIMINATORY ACTION OCCURS WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE FILING OF THE GRIEVANCE OR COMPLAINT. FOR THE PURPOSES OF THIS SUBSECTION, "DISCRIMINATORY TREATMENT OF AN EMPLOYEE" INCLUDES DISCHARGE, DEMOTION, SUSPENSION AND ANY OTHER UNFAVORABLE CHANGES IN THE TERMS OR CONDITIONS OF EMPLOYMENT, OR THE THREAT OF ANY OF THESE ACTIONS.

C. AN EMPLOYEE WHO HAS BEEN DISCRIMINATED AGAINST IN EMPLOYMENT PURSUANT TO THIS SECTION IS ENTITLED TO REINSTATEMENT, TO REIMBURSEMENT FOR LOST WAGES AND WORK BENEFITS CAUSED BY THE ACTS OF THE EMPLOYER AND TO AN AWARD OF REASONABLE ATTORNEY FEES AND COSTS AS THE PREVAILING PARTY.

36-1329. Enforcement procedures

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, AN ACTION MAY BE BROUGHT PURSUANT TO THIS ARTICLE NOT LATER THAN TWO YEARS AFTER THE DATE OF THE LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS BROUGHT.

B. IN THE CASE OF SUCH ACTION BROUGHT FOR A WILFUL VIOLATION OF THIS ARTICLE, AN ACTION MAY BE BROUGHT WITHIN THREE YEARS AFTER THE DATE OF THE
LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS BROUGHT.

C. HOSPITALS OR OTHER HEALTH CARE INSTITUTIONS SHALL POST IN A PROMINENT PLACE FOR REVIEW BY THE PUBLIC AND THE EMPLOYEES A COPY OF SECTIONS 36-1321, 36-1322, 36-1323 AND 36-1324. THE POSTING SHALL HAVE A TITLE ACROSS THE TOP IN AT LEAST THIRTY-FIVE POINT, BOLD TYPEFACE THAT STATES: "RIGHTS OF REGISTERED NURSES AS PATIENT ADVOCATES AND EMPLOYEES".

36-1330. Civil penalties

A. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER THAT IS FOUND TO HAVE VIOLATED OR INTERFERED WITH ANY OF THE RIGHTS OR PROTECTIONS PRESCRIBED IN THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION.

B. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION MANAGEMENT, NURSING SERVICE OR MEDICAL PERSONNEL THAT IS FOUND TO HAVE VIOLATED OR INTERFERED WITH ANY OF THE RIGHTS OR PROTECTIONS PRESCRIBED IN THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH SUCH VIOLATION.


D. THE ATTORNEY GENERAL SHALL ENFORCE PENALTIES IMPOSED UNDER THIS SECTION IN THE JUSTICE COURT OR THE SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.

E. PENALTIES IMPOSED UNDER THIS SECTION ARE IN ADDITION TO OTHER PENALTIES IMPOSED UNDER THIS CHAPTER. PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE GENERAL FUND.

36-1331. Access to records

THE DEPARTMENT OF HEALTH SERVICES HAS ACCESS TO BOOKS, RECORDS, ACCOUNTS AND ANY OTHER INFORMATION OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION REASONABLY NECESSARY TO CONDUCT AN INVESTIGATION PURSUANT TO THIS ARTICLE.

36-1332. Investigative authority

A. TO ENSURE COMPLIANCE WITH THIS ARTICLE, THE DIRECTOR HAS FULL INVESTIGATIVE AUTHORITY.

B. EACH HOSPITAL AND HEALTH CARE INSTITUTION MUST MAKE, KEEP AND PRESERVE RECORDS PERTAINING TO COMPLIANCE WITH THIS ARTICLE.

C. FOR THE PURPOSES OF ANY INVESTIGATION CONDUCTED PURSUANT TO THIS SECTION, THE DIRECTOR MAY ISSUE SUBPOENAS.

Sec. 3. Legislative findings; collective patient advocacy

A. The legislature finds that in order to ensure the free and responsible exercise of the direct care registered nurse's duties of patient advocacy, various forms of collegial cooperation and collective organization
and action may be necessary and appropriate for effective assertion of patient
interests in the face of the very substantial and powerful conflicting
interests inherent in today's highly concentrated health care industry
operating under an exclusive institutional mandate of surplus revenue
generation and according to workplace policies and conditions that necessarily
subvert professional standards of care and nursing practice. The legislature
declares that organizing or participating in an independent hospital or
facility-based professional practice committees, general and specialty
registered nursing professional associations, or labor organizations seeking
recognition for or engaging in collective bargaining representation, are all
acts of "collective patient advocacy" that direct care registered nurses may
properly take to better protect their professional practice standards and
their patients' interests.

B. The legislature finds that engaging in acts of collective patient
advocacy as described in this section constitutes an exercise of the direct
care registered nurse duty and right of patient advocacy.

C. This act confirms and creates statutory patient advocacy rights for
direct care registered nurses as provided in title 36, chapter 11, article 2,
Arizona Revised Statutes, as added by this act.