

**REFERENCE TITLE: hospitals; patient protection; nurses' rights**

**State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008**

**H. B. \_\_\_\_\_**

**Introduced by \_\_\_\_\_**

**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)**

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Title 36, chapter 4, article 11, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 36, Arizona Revised Statutes, is amended by adding chapter 11, to read:

5 CHAPTER 11

6 PATIENT PROTECTION

7 ARTICLE 1. GENERAL PROVISIONS

8 **36-1301. Definitions**

9 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 1. "CLINICAL JUDGMENT" MEANS THE APPLICATION OF THE DIRECT CARE  
11 REGISTERED NURSE'S KNOWLEDGE, SKILL, EXPERTISE AND EXPERIENCE TO MAKE  
12 INDEPENDENT DECISIONS ABOUT PATIENT CARE.

13 2. "COMPETENCE" MEANS THE ABILITY OF THE DIRECT CARE REGISTERED NURSE  
14 TO ACT AND INTEGRATE THE KNOWLEDGE, SKILLS AND INDEPENDENT PROFESSIONAL  
15 JUDGMENT THAT ARE THE BASIS OF SAFE AND THERAPEUTIC PATIENT CARE.

16 3. "CRITICAL ACCESS HOSPITAL" MEANS A FACILITY THAT IS DESIGNATED  
17 PURSUANT TO A MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM ESTABLISHED BY  
18 THIS STATE AND AS DEFINED IN 42 UNITED STATES CODE SECTION 1395x(mm).

19 4. "CRITICAL CARE UNIT" MEANS A NURSING UNIT OF AN ACUTE CARE HOSPITAL  
20 THAT IS ESTABLISHED TO SAFEGUARD AND PROTECT PATIENTS WHOSE SEVERITY OF  
21 MEDICAL CONDITIONS REQUIRES CONTINUOUS MONITORING AND COMPLEX  
22 INTERVENTIONS BY DIRECT CARE REGISTERED NURSES AND WHOSE RESTORATIVE  
23 MEASURES AND LEVEL OF NURSING INTENSITY REQUIRE INTENSIVE CARE THROUGH  
24 DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED NURSE, COMPLEX MONITORING,  
25 INTENSIVE INTRICATE ASSESSMENT, EVALUATION, SPECIALIZED RAPID INTERVENTION  
26 AND EDUCATION AND TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR OTHER  
27 REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED  
28 NURSE. CRITICAL CARE UNIT INCLUDES AN INTENSIVE CARE UNIT, BURN CENTER,  
29 CORONARY CARE UNIT AND ACUTE RESPIRATORY UNIT.

30 5. "DIRECT CARE REGISTERED NURSE" OR "NURSE" MEANS A REGISTERED NURSE  
31 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15 AND WHO HAS ACCEPTED A DIRECT,  
32 HANDS-ON PATIENT CARE ASSIGNMENT TO IMPLEMENT MEDICAL AND NURSING  
33 REGIMENS.

34 6. "HOSPITAL" INCLUDES A GENERAL HOSPITAL, A CRITICAL ACCESS HOSPITAL  
35 AND A SPECIAL HOSPITAL.

36 7. "HOSPITAL UNIT" MEANS AN INTENSIVE CARE UNIT, CRITICAL CARE UNIT, BURN  
37 UNIT, LABOR AND DELIVERY ROOM, ANTEPARTUM AND POSTPARTUM UNIT,  
38 MEDICAL-SURGICAL UNIT, NEWBORN NURSERY, POSTANESTHESIA SERVICE AREA,  
39 EMERGENCY DEPARTMENT, OPERATING ROOM, PEDIATRIC UNIT, STEP-DOWN AND  
40 INTERMEDIATE CARE UNIT, SPECIALTY CARE UNIT, TELEMETRY UNIT, GENERAL MEDICAL  
41 CARE UNIT, PSYCHIATRIC UNIT, REHABILITATION UNIT AND SKILLED NURSING FACILITY  
42 UNIT.

43 8. "MEDICAL-SURGICAL UNIT" MEANS A UNIT THAT IS ESTABLISHED TO SAFEGUARD  
44 AND PROTECT PATIENTS WHOSE SEVERITY OF ILLNESS, INCLUDING ALL COMORBIDITIES,  
45 RESTORATIVE MEASURES AND LEVEL OF NURSING INTENSITY, REQUIRES CONTINUOUS  
46 CARE THROUGH DIRECT OBSERVATION BY THE DIRECT CARE REGISTERED NURSE,  
47 MONITORING, MULTIPLE ASSESSMENTS, SPECIALIZED INTERVENTIONS, EVALUATIONS AND  
48 EDUCATION AND TEACHING OF THE PATIENT, THE PATIENT'S FAMILY OR OTHER  
49 REPRESENTATIVES BY A COMPETENT AND EXPERIENCED DIRECT CARE REGISTERED  
50 NURSE. MEDICAL-SURGICAL UNIT INCLUDES UNITS IN WHICH PATIENTS REQUIRE LESS  
51 THAN INTENSIVE CARE OR STEP-DOWN CARE AND IN WHICH PATIENTS RECEIVE TWENTY-  
52 FOUR HOUR INPATIENT GENERAL MEDICAL CARE OR POSTSURGICAL CARE, OR BOTH, AND

1 MAY INCLUDE UNITS OF MIXED PATIENT POPULATIONS OF DIVERSE DIAGNOSES AND  
2 DIVERSE AGE GROUPS, EXCLUDING PEDIATRIC PATIENTS.

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

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

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

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

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

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

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

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

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

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

18 **36-1302. Staffing ratios**

19 A. A HOSPITAL MUST MAINTAIN THE FOLLOWING MINIMUM DIRECT CARE  
20 REGISTERED NURSE-TO-PATIENT STAFFING RATIOS AS FOLLOWS AT ALL TIMES:

21 1. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN AN INTENSIVE  
22 CARE UNIT IS 1:2.

23 2. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A CRITICAL CARE  
24 UNIT IS 1:2.

25 3. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A NEONATAL  
26 INTENSIVE CARE UNIT IS 1:2.

27 4. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A BURN UNIT IS  
28 1:2.

29 5. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR A STEP-DOWN  
30 AND INTERMEDIATE CARE UNIT IS 1:3.

31 6. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN THE  
32 POSTANESTHESIA RECOVERY UNIT OF THE ANESTHESIA SERVICE IS 1:2 REGARDLESS OF  
33 THE TYPE OF ANESTHESIA THE PATIENT RECEIVES.

34 7. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS  
35 RECEIVING CONSCIOUS SEDATION IS 1:1.

36 8. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR THE EMERGENCY  
37 DEPARTMENT IS 1:4.

38 9. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR CRITICAL CARE  
39 PATIENTS IN THE EMERGENCY DEPARTMENT IS 1:2.

40 10. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN THE LABOR AND  
41 DELIVERY SUITE OF THE PRENATAL SERVICES IS 1:1 FOR ACTIVE LABOR PATIENTS AND  
42 PATIENTS WITH MEDICAL OR OBSTETRICAL COMPLICATIONS.

43 11. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IS 1:1 AT ALL TIMES  
44 FOR INITIATING EPIDURAL ANESTHESIA AND CIRCULATION FOR CESAREAN DELIVERY.

45 12. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS IN  
46 IMMEDIATE POSTPARTUM IS 1:2.

47 13. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR ANTEPARTUM  
48 PATIENTS WHO ARE NOT IN ACTIVE LABOR IS 1:3.

49 14. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PATIENTS IN A  
50 POSTPARTUM AREA OF THE PRENATAL SERVICE IS ONE NURSE TO THREE MOTHER-BABY  
51 COUPLETS. FOR MULTIPLE BIRTHS, THE TOTAL NUMBER OF MOTHER AND HER INFANTS  
52 ASSIGNED TO A SINGLE DIRECT CARE REGISTERED NURSE SHALL NOT EXCEED SIX.

1           15. FOR POSTPARTUM AREAS IN WHICH THE DIRECT CARE REGISTERED NURSE'S  
2 ASSIGNMENT CONSISTS OF MOTHERS ONLY, THE DIRECT CARE REGISTERED  
3 NURSE-TO-PATIENT RATIO IS 1:4.  
4           16. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR POSTPARTUM  
5 WOMEN OR POSTSURGICAL GYNECOLOGICAL PATIENTS ONLY IS 1:4.  
6           17. THE WELL BABY NURSERY DIRECT CARE REGISTERED NURSE RATIO IS 1:5.  
7           18. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR UNSTABLE  
8 NEWBORNS AND THOSE IN THE RESUSCITATION PERIOD AS ASSESSED BY THE DIRECT CARE  
9 REGISTERED NURSE IS 1:1.  
10          19. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR RECENTLY BORN  
11 INFANTS IS 1:4.  
12          20. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PEDIATRICS IS 1:3.  
13          21. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN TELEMETRY IS 1:3.  
14          22. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN MEDICAL  
15 SURGICAL IS 1:4.  
16          23. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO FOR PRESURGICAL  
17 ADMISSIONS UNITS OR AMBULATORY SURGICAL UNITS IS 1:4.  
18          24. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN OTHER SPECIALTY  
19 UNITS IS 1:4.  
20          25. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN PSYCHIATRIC UNITS  
21 IS 1:4.  
22          26. THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN A REHABILITATION  
23 UNIT OR A SKILLED NURSING FACILITY IS 1:5.  
24          B. AT A MINIMUM, AN OPERATING ROOM MUST HAVE AT LEAST ONE DIRECT CARE  
25 REGISTERED NURSE ASSIGNED TO THE DUTIES OF THE CIRCULATING REGISTERED NURSE  
26 AND A MINIMUM OF ONE ADDITIONAL PERSON AS A SCRUB ASSISTANT FOR EACH PATIENT.  
27          C. ONLY DIRECT CARE REGISTERED NURSES SHALL BE ASSIGNED TO CRITICAL  
28 TRAUMA PATIENTS IN THE EMERGENCY DEPARTMENT, AND A MINIMUM DIRECT CARE  
29 REGISTERED NURSE-TO-CRITICAL TRAUMA PATIENT RATIO OF 1:1 MUST BE MAINTAINED  
30 AT ALL TIMES.  
31          D. TRIAGE, RADIO OR SPECIALTY-FLIGHT REGISTERED NURSES DO NOT COUNT IN  
32 THE CALCULATION OF THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIO IN AN  
33 EMERGENCY DEPARTMENT.  
34          **36-1303. Patient classification system; review committees**  
35          A. IN ADDITION TO THE DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS  
36 PRESCRIBED IN SECTION 36-1302, EACH HOSPITAL MUST IMPLEMENT A PATIENT  
37 CLASSIFICATION SYSTEM TO DETERMINE THE PATIENT CARE NEEDS OF INDIVIDUAL  
38 PATIENTS. THE HOSPITAL MUST ASSIGN ADDITIONAL DIRECT CARE REGISTERED NURSES  
39 AND OTHER LICENSED OR UNLICENSED STAFF AS INDICATED BY THE PATIENT  
40 CLASSIFICATION SYSTEM. THE PATIENT CLASSIFICATION SYSTEM MUST REFLECT THE  
41 ASSESSMENT MADE BY THE ASSIGNED DIRECT CARE REGISTERED NURSE OF PATIENT  
42 NURSING CARE REQUIREMENTS AND PROVIDE FOR SHIFT-BY-SHIFT STAFFING BASED ON  
43 THOSE REQUIREMENTS. THE ASSESSMENT MUST INCLUDE THE SEVERITY OF THE  
44 PATIENT'S ILLNESS, THE NEED FOR SPECIALIZED EQUIPMENT AND TECHNOLOGY AND THE  
45 INTENSITY OF REQUIRED NURSING INTERVENTIONS THAT IS CONSISTENT WITH  
46 PROFESSIONAL STANDARDS, THE ABILITY FOR SELF-CARE, INCLUDING MOTOR, SENSORY  
47 AND COGNITIVE DEFICITS, THE NEED FOR ADVOCACY INTERVENTION, THE LICENSURE OF  
48 THE PERSONNEL REQUIRED FOR CARE, THE PATIENT CARE DELIVERY SYSTEM, THE  
49 HOSPITAL UNIT'S GEOGRAPHIC LAYOUT, GENERALLY ACCEPTED STANDARDS OF NURSING  
50 PRACTICE AND ELEMENTS THAT REFLECT THE UNIQUE NATURE OF THE ACUTE CARE  
51 HOSPITAL'S PATIENT POPULATION.

1 B. THE RATIOS DETERMINED PURSUANT TO SECTION 36-1302 ARE THE MINIMUM  
2 NUMBER OF DIRECT CARE REGISTERED NURSES WHO MUST BE ASSIGNED TO DIRECT  
3 PATIENT CARE. THE HOSPITAL MUST ASSIGN ADDITIONAL DIRECT CARE REGISTERED  
4 NURSING STAFF IN EXCESS OF THESE PRESCRIBED RATIOS TO DIRECT PATIENT CARE  
5 ACCORDING TO THE HOSPITAL'S IMPLEMENTATION OF A VALID PATIENT CLASSIFICATION  
6 SYSTEM FOR DETERMINING NURSING CARE REQUIREMENTS.

7 C. THE RELIABILITY OF THE PATIENT CLASSIFICATION SYSTEM FOR VALIDATING  
8 STAFFING REQUIREMENTS MUST BE REVIEWED AT LEAST ANNUALLY BY A COMMITTEE  
9 APPOINTED BY THE CHIEF NURSING OFFICER TO DETERMINE WHETHER OR NOT THE  
10 SYSTEM ACCURATELY MEASURES INDIVIDUAL PATIENT CARE NEEDS. AT LEAST HALF OF  
11 THE MEMBERS OF THIS COMMITTEE MUST BE UNIT-SPECIFIC COMPETENT DIRECT CARE  
12 REGISTERED NURSES WHO PROVIDE DIRECT PATIENT CARE. IF DIRECT CARE REGISTERED  
13 NURSES ARE REPRESENTED UNDER A COLLECTIVE BARGAINING AGREEMENT, THE  
14 APPOINTMENT MUST BE MADE BY THE AUTHORIZED COLLECTIVE BARGAINING AGENT. IN  
15 CASE OF A DISPUTE, THE DIRECT CARE REGISTERED NURSE ASSESSMENT PREVAILS.

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

20 **36-1304. Minimum staffing requirements; prohibitions**

21 A. EACH HOSPITAL MUST PROVIDE MINIMUM STAFFING BY DIRECT CARE  
22 REGISTERED NURSES ACCORDING TO THE GENERAL REQUIREMENTS OF THIS SECTION AND  
23 THE CLINICAL UNIT DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS PRESCRIBED  
24 PURSUANT TO SECTION 36-1302. STAFFING FOR PATIENT CARE TASKS NOT REQUIRING A  
25 DIRECT CARE REGISTERED NURSE IS NOT INCLUDED IN THESE RATIOS AND MUST BE  
26 DETERMINED PURSUANT TO THE PATIENT CLASSIFICATION SYSTEM PRESCRIBED  
27 PURSUANT TO SECTION 36-1303.

28 B. A HOSPITAL SHALL NOT ASSIGN A DIRECT CARE REGISTERED NURSE TO A  
29 NURSING UNIT OR CLINICAL AREA UNLESS THAT HOSPITAL AND THE DIRECT CARE  
30 REGISTERED NURSE DETERMINE THAT THE NURSE HAS DEMONSTRATED CURRENT  
31 COMPETENCE IN PROVIDING CARE IN THAT AREA AND HAS ALSO RECEIVED AND  
32 COMPLETED ORIENTATION TO THAT HOSPITAL'S CLINICAL AREA SUFFICIENT TO PROVIDE  
33 SAFE, THERAPEUTIC AND COMPETENT CARE TO PATIENTS IN THAT AREA. THE POLICIES  
34 AND PROCEDURES OF THE HOSPITAL MUST CONTAIN THE HOSPITAL'S CRITERIA FOR  
35 MAKING THIS DETERMINATION.

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

41 D. AVERAGING OF THE NUMBER OF PATIENTS AND THE TOTAL NUMBER OF DIRECT  
42 CARE REGISTERED NURSES ON THE UNIT DURING ANY ONE SHIFT OR OVER ANY PERIOD OF  
43 TIME IS PROHIBITED.

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

51 **36-1305. Care units; identification; requirements**

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

5           B. PATIENTS SHALL BE CARED FOR ONLY ON UNITS WHERE THE LEVEL OF  
6 INTENSITY, TYPE OF CARE AND DIRECT CARE REGISTERED NURSE-TO-PATIENT RATIOS  
7 MEET THE INDIVIDUAL REQUIREMENTS AND NEEDS OF EACH PATIENT.

8           **36-1306. Prohibited activities**

9           A. A HOSPITAL SHALL NOT DIRECTLY ASSIGN ANY UNLICENSED PERSONNEL TO  
10 PERFORM DIRECT CARE REGISTERED NURSE FUNCTIONS INSTEAD OF CARE DELIVERED BY  
11 A LICENSED REGISTERED NURSE AND SHALL NOT ASSIGN UNLICENSED PERSONNEL TO  
12 PERFORM DIRECT CARE REGISTERED NURSE FUNCTIONS UNDER THE SUPERVISION OF A  
13 DIRECT CARE REGISTERED NURSE.

14           B. UNLICENSED PERSONNEL SHALL NOT PERFORM TASKS THAT REQUIRE THE  
15 CLINICAL ASSESSMENT, JUDGMENT AND SKILL OF A LICENSED REGISTERED NURSE,  
16 INCLUDING THE FOLLOWING:

17           1. NURSING ACTIVITIES THAT REQUIRE NURSING ASSESSMENT AND JUDGMENT  
18 DURING IMPLEMENTATION.

19           2. PHYSICAL, PSYCHOLOGICAL AND SOCIAL ASSESSMENTS THAT REQUIRE NURSING  
20 JUDGMENT, INTERVENTION, REFERRAL OR FOLLOW-UP.

21           3. FORMULATION OF A PLAN OF NURSING CARE.

22           4. EVALUATION OF THE PATIENT'S RESPONSE TO THE CARE PROVIDED.

23           5. ADMINISTRATION OF MEDICATIONS.

24           C. A HOSPITAL MAY NOT IMPOSE MANDATORY OVERTIME REQUIREMENTS TO  
25 MEET THE STAFFING RATIOS PRESCRIBED PURSUANT TO SECTION 36-1302.

26           **36-1307. Hospital nursing practice standards**

27           A. A DIRECT CARE REGISTERED NURSE WHO IS EMPLOYED IN A HOSPITAL MUST:

28           1. PROVIDE SAFE, THERAPEUTIC AND COMPETENT NURSING CARE TO ASSIGNED  
29 PATIENTS.

30           2. ASSESS EACH MEDICAL ORDER, AND BEFORE ACTING ON THE ORDER, DETERMINE  
31 IF THE ORDER IS IN THE BEST INTEREST OF THE PATIENT AND IF IT WAS INITIATED BY A  
32 PERSON LEGALLY AUTHORIZED TO INITIATE SUCH AN ORDER. A DIRECT CARE  
33 REGISTERED NURSE WHO REFUSES TO IMPLEMENT AN ORDER THAT THE NURSE  
34 DETERMINES IS NOT IN THE PATIENT'S BEST INTEREST IS AN EXERCISE OF THE DIRECT  
35 CARE REGISTERED NURSE DUTY AND RIGHT AS A PATIENT ADVOCATE.

36           3. PERFORM CONTINUOUS AND ONGOING PATIENT ASSESSMENTS OF THE PATIENT'S  
37 CONDITION BASED ON THE INDEPENDENT PROFESSIONAL JUDGMENT OF THE DIRECT CARE  
38 REGISTERED NURSE. PATIENT ASSESSMENT REQUIRES DIRECT OBSERVATION BY THE  
39 DIRECT CARE REGISTERED NURSE OF THE PATIENT'S SIGNS AND SYMPTOMS OF ILLNESS,  
40 REACTION TO TREATMENT, BEHAVIOR AND PHYSICAL CONDITION, AND INTERPRETATION  
41 OF INFORMATION OBTAINED FROM THE PATIENT AND OTHERS, INCLUDING OTHER  
42 CAREGIVERS ON THE HEALTH TEAM. ONLY A DIRECT CARE REGISTERED NURSE SHALL  
43 PERFORM PATIENT ASSESSMENTS. LICENSED VOCATIONAL NURSES MAY ASSIST DIRECT  
44 CARE REGISTERED NURSES IN DATA COLLECTION. FOR THE PURPOSES OF THIS  
45 PARAGRAPH, "ASSESSMENT" MEANS THE COLLECTION OF DATA BY THE DIRECT CARE  
46 REGISTERED NURSE AND THE ANALYSIS, SYNTHESIS AND EVALUATION OF THAT DATA.

47           4. PLAN, IMPLEMENT AND EVALUATE THE NURSING CARE PROVIDED TO EACH  
48 PATIENT. THE PLANNING AND DELIVERY OF PATIENT CARE MUST REFLECT ALL ELEMENTS  
49 OF THE NURSING PROCESS, INCLUDING ASSESSMENT, NURSING DIAGNOSIS, PLANNING,  
50 INTERVENTION, EVALUATION AND, AS CIRCUMSTANCES REQUIRE, PATIENT ADVOCACY,  
51 AND MUST BE INITIATED BY A DIRECT CARE REGISTERED NURSE AT THE TIME OF  
52 ADMISSION.

1 B. BEFORE ACCEPTING A PATIENT ASSIGNMENT, A DIRECT CARE REGISTERED  
2 NURSE MUST HAVE THE NECESSARY KNOWLEDGE, JUDGMENT, SKILLS AND ABILITY TO  
3 PROVIDE THE REQUIRED CARE. IT IS THE RESPONSIBILITY OF THE DIRECT CARE  
4 REGISTERED NURSE TO DETERMINE IF THE NURSE IS CLINICALLY COMPETENT TO  
5 PERFORM THE REQUIRED NURSING CARE IN A PARTICULAR CLINICAL UNIT AND WITH A  
6 PARTICULAR DIAGNOSIS, CONDITION, PROGNOSIS OR OTHER DETERMINATIVE  
7 CHARACTERISTICS OF NURSING CARE. IF THE DIRECT CARE REGISTERED NURSE IS NOT  
8 CLINICALLY COMPETENT TO PERFORM THE CARE REQUIRED, THE NURSE SHALL NOT  
9 ACCEPT THE PATIENT CARE ASSIGNMENT. THE REFUSAL TO ACCEPT A PATIENT CARE  
10 ASSIGNMENT IS AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT  
11 OF PATIENT ADVOCACY.

12 **36-1308. Consumer information; toll-free telephone number**

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

15 1. THE RATIO OF DIRECT CARE REGISTERED NURSING STAFF TO PATIENTS ON EACH  
16 UNIT.

17 2. THE STAFFING REQUIREMENTS AS DETERMINED BY THE PATIENT  
18 CLASSIFICATION SYSTEM FOR EACH UNIT.

19 3. THE ACTUAL STAFF AND STAFF RATIO PROVIDED.

20 4. THE VARIANCE BETWEEN THE REQUIRED AND THE ACTUAL STAFFING PATTERNS.

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

24 **36-1309. Disciplinary action; civil penalty**

25 A HOSPITAL THAT VIOLATES THIS ARTICLE IS SUBJECT TO SUSPENSION OR  
26 REVOCATION OF ITS LICENSE TO OPERATE AND IS SUBJECT TO A CIVIL PENALTY OF NOT  
27 MORE THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS ARTICLE  
28 AND AN ADDITIONAL CIVIL PENALTY OF TEN THOUSAND DOLLARS PER NURSING UNIT  
29 SHIFT UNTIL THE VIOLATION IS CORRECTED.

30 **ARTICLE 2. PATIENT SAFETY AND ADVOCACY**

31 **36-1321. Nurses; patient advocacy; duties and rights; definition**

32 A DIRECT CARE REGISTERED NURSE HAS THE PROFESSIONAL OBLIGATION AND  
33 THEREFORE THE RIGHT TO ACT AS THE PATIENT'S ADVOCATE, AS CIRCUMSTANCES  
34 REQUIRE, BY INITIATING ACTION TO IMPROVE HEALTH CARE OR TO CHANGE DECISIONS  
35 OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT OF THE DIRECT CARE REGISTERED  
36 NURSE ARE AGAINST THE INTERESTS OR WISHES OF THE PATIENT, OR BY GIVING THE  
37 PATIENT THE OPPORTUNITY TO MAKE INFORMED DECISIONS ABOUT HEALTH CARE  
38 BEFORE IT IS PROVIDED.

39 **36-1322. Duty to act; protection against retaliation; definition**

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

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

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

1           **D. THE CONTENT OF SPEECH PROTECTED BY THIS SECTION INCLUDES:**  
2           **1. THE FACTS AND CIRCUMSTANCES OF PARTICULAR EVENTS.**  
3           **2. PATIENT CARE PRACTICES.**  
4           **3. INSTITUTIONAL ACTIONS, POLICIES AND CONDITIONS THAT MAY FACILITATE OR**  
5 **IMPEDE COMPETENT AND SAFE NURSING PRACTICE AND PATIENT CARE.**  
6           **4. ADVERSE PATIENT OUTCOMES OR INCIDENTS.**  
7           **5. SENTINEL AND REPORTABLE EVENTS.**  
8           **6. ARGUMENTS IN SUPPORT OF OR AGAINST HOSPITAL POLICIES OR PRACTICES**  
9 **RELATING TO THE DELIVERY OF NURSING CARE BY A DIRECT CARE REGISTERED NURSE**  
10 **AND OTHER HEALTH PROFESSIONAL.**  
11           **E. PROTECTED SPEECH UNDER THIS SECTION INCLUDES THE INTERNAL, EXTERNAL**  
12 **AND PUBLIC REPORTING OF ACTIONS, CONDUCT, EVENTS, PRACTICES AND OTHER**  
13 **MATTERS THAT ARE BELIEVED TO:**  
14           **1. CONSTITUTE A VIOLATION OF FEDERAL, STATE OR LOCAL LAWS.**  
15           **2. CONSTITUTE A BREACH OF APPLICABLE CODES OF PROFESSIONAL ETHICAL**  
16 **OBLIGATIONS APPLICABLE TO DIRECT CARE REGISTERED NURSES AND OTHER HEALTH**  
17 **PROFESSIONALS.**  
18           **3. CONCERN MATTERS THAT THE REPORTING DIRECT CARE REGISTERED NURSE**  
19 **BELIEVES ARE APPROPRIATE OR REQUIRED TO:**  
20           **(a) FURTHER AND SUPPORT THE DIRECT CARE REGISTERED NURSE'S EXERCISE OF**  
21 **PATIENT ADVOCACY DUTIES IN ORDER TO IMPROVE HEALTH CARE OR TO CHANGE**  
22 **DECISIONS OR ACTIVITIES THAT IN THE DIRECT CARE REGISTERED NURSE'S**  
23 **PROFESSIONAL JUDGMENT ARE AGAINST THE INTERESTS OR WISHES OF A PATIENT.**  
24           **(b) ENSURE THAT A PATIENT IS AFFORDED A MEANINGFUL OPPORTUNITY TO MAKE**  
25 **INFORMED DECISIONS ABOUT HEALTH CARE BEFORE IT IS PROVIDED.**  
26           **4. CONCERN MATTERS AS DESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION MADE**  
27 **IN AID AND SUPPORT OF THE EXERCISE OF PATIENT ADVOCACY DUTIES OF DIRECT CARE**  
28 **REGISTERED NURSE COLLEAGUES.**  
29           **F. THIS SECTION DOES NOT AUTHORIZE DISCLOSURE OF PRIVATE AND**  
30 **CONFIDENTIAL PATIENT INFORMATION UNLESS DISCLOSURE IS:**  
31           **1. REQUIRED BY LAW.**  
32           **2. COMPELLED BY PROPER LEGAL PROCESS.**  
33           **3. CONSENTED TO BY THE PATIENT.**  
34           **4. PROVIDED IN CONFIDENCE TO REGULATORY OR ACCREDITATION AGENCIES OR**  
35 **TO OTHER GOVERNMENT ENTITIES FOR INVESTIGATORY PURPOSES.**  
36           **5. PURSUANT TO FORMAL OR INFORMAL COMPLAINTS OF UNLAWFUL OR**  
37 **IMPROPER PRACTICES FOR PURPOSES OF ACHIEVING CORRECTIVE AND REMEDIAL**  
38 **ACTION.**  
39           **G. ENGAGING IN FREE SPEECH ACTIVITY AS DESCRIBED IN THIS SECTION**  
40 **CONSTITUTES AN EXERCISE OF THE DIRECT CARE REGISTERED NURSE DUTY AND RIGHT OF**  
41 **PATIENT ADVOCACY. THE SUBJECT MATTER OF FREE SPEECH ACTIVITY AS DESCRIBED IN**  
42 **THIS SECTION IS PRESUMED TO BE A MATTER OF PUBLIC CONCERN AND THE DISCLOSURES**  
43 **PROTECTED UNDER THIS SECTION ARE PRESUMED TO BE IN THE PUBLIC INTEREST.**  
44           **H. FOR THE PURPOSES OF THIS ARTICLE, "HEALTH PROFESSIONAL" HAS THE SAME**  
45 **MEANING PRESCRIBED IN SECTION 32-3201.**  
46           **36-1323. Ethical and fiduciary duties**  
47           **A. A DIRECT CARE REGISTERED NURSE IS IN A FIDUCIARY RELATION TO AN**  
48 **ASSIGNED PATIENT AS TO MATTERS WITHIN THE SCOPE OF PRACTICE AND PROFESSIONAL**  
49 **RESPONSIBILITY OF THE NURSE TO PROVIDE SAFE, THERAPEUTIC AND COMPETENT**  
50 **NURSING CARE IN THE INTERESTS OF THE PATIENT. AS TO THESE MATTERS, THE DIRECT**  
51 **CARE REGISTERED NURSE RESPONSIBLE FOR A PATIENT SHALL PERFORM THE ESSENTIAL**  
52 **FUNCTIONS OF A DIRECT CARE REGISTERED NURSE EXCLUSIVELY IN THE INTERESTS OF**

1 THE PATIENT AND SHALL NOT BE INFLUENCED BY THE INTERESTS OF ANY THIRD PARTY OR  
2 THE DIRECTIVES OF ANY SUCH INTERESTED THIRD PARTY OR BY MOTIVES OTHER THAN  
3 THE ACCOMPLISHMENT OF THE NURSE'S PROFESSIONAL RESPONSIBILITY TO PROVIDE SAFE  
4 AND COMPETENT NURSING CARE IN THE INTERESTS OF AND FOR THE BENEFIT OF THE  
5 PATIENT.

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

13 **36-1324. Protected rights**

14 A. A PERSON HAS THE RIGHT TO:

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

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

21 B. BY VIRTUE OF THEIR PROFESSIONAL LICENSE AND ETHICAL OBLIGATIONS,  
22 DIRECT CARE REGISTERED NURSES HAVE A DUTY AND RIGHT TO ACT AND PROVIDE CARE  
23 EXCLUSIVELY IN THE INTERESTS OF PATIENTS AND TO ACT AS THE PATIENT'S ADVOCATE,  
24 AS CIRCUMSTANCES REQUIRE, BY INITIATING ACTION TO IMPROVE HEALTH CARE OR TO  
25 CHANGE DECISIONS OR ACTIVITIES THAT IN THE PROFESSIONAL JUDGMENT OF THE  
26 DIRECT CARE REGISTERED NURSES ARE AGAINST THE INTERESTS OR WISHES OF ASSIGNED  
27 PATIENTS, OR BY GIVING THE PATIENT THE OPPORTUNITY TO MAKE INFORMED DECISIONS  
28 ABOUT HEALTH CARE BEFORE IT IS PROVIDED.

29 C. A PATIENT OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION AGGRIEVED  
30 BY THAT HOSPITAL'S OR INSTITUTION'S INTERFERENCE WITH THE FULL AND FREE  
31 EXERCISE OF PATIENT ADVOCACY DUTIES BY A DIRECT CARE REGISTERED NURSE MAY  
32 MAKE OR FILE A COMPLAINT AND MAY COOPERATE, PROVIDE EVIDENCE, TESTIFY OR  
33 OTHERWISE SUPPORT OR PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT  
34 PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE. A PATIENT IS AGGRIEVED IF THE  
35 PATIENT'S HEALTH OR SAFETY WAS JEOPARDIZED OR THE PATIENT WAS EXPOSED TO  
36 ADDITIONAL RISK OF INJURY, DISEASE, PAIN OR SUFFERING AS A CONSEQUENCE OF  
37 CONDITIONS OR CIRCUMSTANCES CAUSED IN WHOLE OR IN PART BY THE HOSPITAL'S OR  
38 INSTITUTION'S INTERFERENCE WITH PATIENT ADVOCACY RIGHTS OF A DIRECT CARE  
39 REGISTERED NURSE HEALTH PROFESSIONAL. ACTUAL PHYSICAL INJURY, DISEASE, PAIN  
40 OR SUFFERING IS NOT REQUIRED FOR A PATIENT TO HAVE STANDING TO FILE A  
41 COMPLAINT AND OBTAIN APPROPRIATE REMEDIES UNDER THIS ARTICLE.

42 D. A DIRECT CARE REGISTERED NURSE OF A HOSPITAL OR OTHER HEALTH CARE  
43 INSTITUTION AGGRIEVED BY THAT HOSPITAL'S OR INSTITUTION'S INTERFERENCE WITH  
44 THE FULL AND FREE EXERCISE OF PATIENT ADVOCACY DUTIES MAY MAKE OR FILE A  
45 COMPLAINT AND MAY COOPERATE, PROVIDE EVIDENCE, TESTIFY OR OTHERWISE SUPPORT  
46 OR PARTICIPATE IN ANY INVESTIGATION OR COMPLAINT PROCEEDING PURSUANT TO THIS  
47 ARTICLE.

48 **36-1325. Prohibited acts**

49 A. IT IS UNLAWFUL FOR ANY HOSPITAL OR OTHER HEALTH CARE INSTITUTION TO:

50 1. INTERFERE WITH, RESTRAIN, COERCE, INTIMIDATE OR DENY THE EXERCISE OF  
51 OR THE ATTEMPT TO EXERCISE BY ANY PERSON OF ANY RIGHT TO ACT PURSUANT TO THIS  
52 ARTICLE.

1           2. DISCRIMINATE OR RETALIATE AGAINST ANY PERSON FOR OPPOSING ANY  
2 POLICY, PRACTICE OR ACTION OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
3 THAT IS ALLEGED TO VIOLATE, BREACH OR FAIL TO COMPLY WITH THIS ARTICLE.  
4           3. MAKE, ADOPT OR ENFORCE ANY POLICY OR PRACTICE THAT DIRECTLY OR  
5 INDIRECTLY PROHIBITS, IMPEDES, DISCOURAGES, INTIMIDATES, COERCES OR INDUCES IN  
6 ANY MANNER A DIRECT CARE REGISTERED NURSE OR OTHER HEALTH PROFESSIONAL  
7 FROM ENGAGING IN FREE SPEECH ACTIVITIES OR DISCLOSING INFORMATION AS  
8 PRESCRIBED IN THIS ARTICLE.  
9           4. MAKE, ADOPT OR ENFORCE ANY POLICY OR PRACTICE THAT DIRECTLY OR  
10 INDIRECTLY AUTHORIZES, SANCTIONS, PERMITS, EXCUSES OR ENCOURAGES ANY OTHER  
11 PERSON TO ENGAGE IN CONDUCT THAT IS LIKELY TO PROHIBIT, IMPEDE, DISCOURAGE,  
12 INTIMIDATE, COERCE OR INDUCE IN ANY MANNER A DIRECT CARE REGISTERED NURSE OR  
13 OTHER HEALTH PROFESSIONAL FROM ENGAGING IN FREE SPEECH ACTIVITIES OR  
14 DISCLOSING INFORMATION AS PROVIDED IN THIS ARTICLE.  
15           B. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION SHALL NOT USE  
16 TECHNOLOGY THAT:  
17           1. LIMITS THE DIRECT CARE REGISTERED NURSE IN PERFORMING FUNCTIONS THAT  
18 ARE PART OF THE NURSING PROCESS, INCLUDING FULL EXERCISE OF INDEPENDENT  
19 CLINICAL JUDGMENT IN ASSESSMENT, PLANNING, IMPLEMENTATION AND EVALUATION OF  
20 CARE, OR FROM ACTING AS PATIENT ADVOCATE IN THE EXCLUSIVE INTEREST OF THE  
21 PATIENT.  
22           2. IS SKILL DEGRADING.  
23           3. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE WHO PROVIDES  
24 INDIVIDUALIZED PATIENT CARE.  
25           4. OVERRIDES THE DIRECT CARE REGISTERED NURSE'S INDEPENDENT  
26 PROFESSIONAL JUDGMENT.  
27           5. INTERFERES WITH THE DIRECT CARE REGISTERED NURSE'S RIGHT TO ADVOCATE  
28 IN THE EXCLUSIVE INTEREST OF THE PATIENT.  
29           C. THE PROHIBITION TO INTERFERE WITH A DIRECT CARE REGISTERED NURSE'S  
30 RIGHTS AND DUTIES PRESCRIBED IN THIS ARTICLE APPLIES TO THE FOLLOWING:  
31           1. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER.  
32           2. ALL MANAGEMENT PERSONNEL EMPLOYED BY A HOSPITAL OR OTHER HEALTH  
33 CARE INSTITUTION.  
34           3. ALL PERSONNEL WITH MANAGEMENT OR SUPERVISORY AUTHORITY EMPLOYED  
35 BY A HOSPITAL OR OTHER HEALTH CARE INSTITUTION, INCLUDING THE REGISTERED  
36 NURSE ADMINISTRATOR, REGISTERED NURSE MANAGER AND REGISTERED NURSE  
37 SUPERVISOR.  
38           4. ALL MEDICAL PERSONNEL WHO TREAT PATIENTS ADMITTED TO HOSPITAL  
39 NURSING UNITS, WHETHER EMPLOYED BY THE HOSPITAL OR OTHER HEALTH CARE  
40 INSTITUTION.  
41           5. ANY PERSON WHO IS PRIVILEGED TO ADMIT PATIENTS, THROUGH AN AFFILIATED  
42 MEDICAL GROUP OR OTHERWISE.  
43           D. PROHIBITED INTERFERENCE WITH PATIENT ADVOCACY DUTIES OF A DIRECT  
44 CARE REGISTERED NURSE INCLUDES:  
45           1. CONDUCT, ACTIONS OR OMISSIONS TO ACT THAT DIRECTLY OR INDIRECTLY ARE  
46 LIKELY TO PROHIBIT, IMPEDE, DISCOURAGE, INTIMIDATE, COERCE OR INDUCE IN ANY  
47 MANNER A DIRECT CARE REGISTERED NURSE FROM TAKING ACTION INDICATED OR  
48 AUTHORIZED BY THE PROFESSIONAL OBLIGATIONS OF PATIENT ADVOCACY DESCRIBED IN  
49 THIS ARTICLE.  
50           2. ANY ACT OF PROHIBITED INTERFERENCE COMMITTED BY AN INDIVIDUAL  
51 WITHIN THE COURSE AND SCOPE OF EMPLOYMENT AS MANAGEMENT, NURSING SERVICE  
52 OR MEDICAL PERSONNEL FOR A HOSPITAL.

1 E. ANY EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
2 EMPLOYER WHO HAS AUTHORITY TO TAKE, DIRECT OTHERS TO TAKE, RECOMMEND OR  
3 APPROVE ANY PERSONNEL ACTION OF THE EMPLOYER WITH RESPECT TO A DIRECT CARE  
4 REGISTERED NURSE OR OTHER HEALTH PROFESSIONAL, WITH RESPECT TO THAT  
5 AUTHORITY, SHALL NOT TAKE OR FAIL TO TAKE, OR THREATEN TO TAKE OR FAIL TO  
6 TAKE, ANY ACTION WITH RESPECT TO A NURSE OR OTHER HEALTH PROFESSIONAL  
7 BECAUSE THE NURSE OR OTHER HEALTH PROFESSIONAL ENGAGES IN CONDUCT IN  
8 FURTHERANCE OF THAT PERSON'S DUTIES AND RIGHTS AS PRESCRIBED IN THIS ARTICLE,  
9 INCLUDING REFUSING TO OBEY AN ORDER THAT THE DIRECT CARE REGISTERED NURSE  
10 HAS DETERMINED, IN THE EXERCISE OF THE NURSE'S INDEPENDENT JUDGMENT, SHOULD  
11 BE REFUSED IN ACCORDANCE WITH THE REGISTERED NURSE'S DUTY AND RIGHT OF  
12 PATIENT ADVOCACY. ANY ACTION OR OMISSION TO ACT UNDERTAKEN IN THE COURSE OR  
13 SCOPE OF EMPLOYMENT FOR A HOSPITAL OR OTHER HEALTH CARE INSTITUTION IS  
14 CONSIDERED AN ACTION OR OMISSION OF THE HOSPITAL OR OTHER HEALTH CARE  
15 INSTITUTION FOR PURPOSES OF THIS ARTICLE.

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

34 **36-1326. Retaliation; discrimination; prohibition**

35 A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER SHALL NOT  
36 DISCRIMINATE OR RETALIATE IN ANY MANNER AGAINST ANY PATIENT, EMPLOYEE OR  
37 CONTRACT EMPLOYEE OF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION OR ANY  
38 OTHER PERSON BECAUSE THAT PERSON HAS:

- 39 1. PRESENTED A GRIEVANCE OR COMPLAINT.
- 40 2. INITIATED OR COOPERATED IN ANY INVESTIGATION OR PROCEEDING OF ANY  
41 GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE ACCREDITATION BODY.
- 42 3. MADE A CIVIL CLAIM OR DEMAND OR FILED AN ACTION RELATING TO THE CARE,  
43 SERVICES OR CONDITIONS OF THAT HOSPITAL OR OF ANY AFFILIATED OR RELATED  
44 FACILITIES.

45 **36-1327. Enforcement by private action**

46 A. A HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER THAT VIOLATES  
47 THIS ARTICLE IS LIABLE TO ANY AGGRIEVED EMPLOYEE FOR:

- 48 1. DAMAGES EQUAL TO THE AMOUNT OF ANY WAGES, SALARY, EMPLOYMENT  
49 BENEFITS OR OTHER COMPENSATION DENIED OR LOST TO THE EMPLOYEE BY REASON OF  
50 THE EMPLOYER'S VIOLATION OF THIS ARTICLE. IF WAGES, SALARY, EMPLOYMENT  
51 BENEFITS OR OTHER COMPENSATION HAVE NOT BEEN DENIED OR LOST TO THE  
52 EMPLOYEE, THE EMPLOYER IS LIABLE FOR ANY ACTUAL MONETARY LOSSES SUSTAINED

1 BY THE EMPLOYEE AS A DIRECT RESULT OF THE VIOLATION.  
2 2. INTEREST ON THE AMOUNT DESCRIBED IN PARAGRAPH 1, CALCULATED AT THE  
3 PREVAILING INTEREST RATE.  
4 3. AN ADDITIONAL AMOUNT AS LIQUIDATED DAMAGES EQUAL TO THE SUM OF THE  
5 AMOUNT OF DAMAGES DESCRIBED IN PARAGRAPH 1 AND THE INTEREST PRESCRIBED IN  
6 PARAGRAPH 2.  
7 4. EQUITABLE RELIEF AS MAY BE APPROPRIATE, INCLUDING EMPLOYMENT,  
8 REINSTATEMENT AND PROMOTION.  
9 B. AN ACTION TO RECOVER THE DAMAGES OR EQUITABLE RELIEF PURSUANT TO  
10 THIS SECTION MAY BE BROUGHT AGAINST ANY HOSPITAL OR OTHER HEALTH CARE  
11 INSTITUTION EMPLOYER, INCLUDING A PUBLIC AGENCY, IN ANY COURT OF COMPETENT  
12 JURISDICTION BY ANY ONE OR MORE EMPLOYEES FOR AND IN BEHALF OF THE EMPLOYEES  
13 AND OTHER EMPLOYEES SIMILARLY SITUATED.  
14 C. THE COURT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION SHALL AWARD  
15 TO A PREVAILING PLAINTIFF REASONABLE ATTORNEY FEES, REASONABLE EXPERT  
16 WITNESS FEES AND OTHER COSTS OF THE ACTION.  
17 D. THIS SECTION DOES NOT LIMIT THE RIGHTS AND REMEDIES AVAILABLE UNDER  
18 SECTION 23-1501 TO AN EMPLOYEE OF A HOSPITAL OR OTHER HEALTH CARE INSTITUTION.  
19 **36-1328. Remedial standards**  
20 A. ANY TYPE OF DISCRIMINATORY TREATMENT OF A PATIENT BY WHOM, OR ON  
21 WHOSE BEHALF, A GRIEVANCE OR COMPLAINT HAS BEEN SUBMITTED, DIRECTLY OR  
22 INDIRECTLY, TO ANY GOVERNMENTAL ENTITY, REGULATORY AGENCY OR PRIVATE  
23 ACCREDITATION BODY RECEIVED BY A HEALTH FACILITY ADMINISTRATOR WITHIN ONE  
24 HUNDRED EIGHTY DAYS AFTER THE FILING OF THE GRIEVANCE OR COMPLAINT SHALL  
25 RAISE A REBUTTABLE PRESUMPTION THAT THE ACTION WAS TAKEN BY THE HOSPITAL IN  
26 RETALIATION FOR THE FILING OF THE GRIEVANCE OR COMPLAINT.  
27 B. ANY DISCRIMINATORY TREATMENT OF AN EMPLOYEE WHO HAS PRESENTED A  
28 GRIEVANCE OR COMPLAINT OR WHO HAS INITIATED OR PARTICIPATED OR COOPERATED  
29 IN ANY INVESTIGATION OR PROCEEDING OF ANY GOVERNMENTAL ENTITY OR PRIVATE  
30 ACCREDITATION BODY, IF THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION  
31 EMPLOYER HAD KNOWLEDGE OF THE EMPLOYEE'S INITIATION, PARTICIPATION OR  
32 COOPERATION, ESTABLISHES A REBUTTABLE PRESUMPTION THAT THE DISCRIMINATORY  
33 ACTION WAS TAKEN BY THE HOSPITAL OR OTHER HEALTH CARE INSTITUTION EMPLOYER  
34 IN RETALIATION, IF THE DISCRIMINATORY ACTION OCCURS WITHIN ONE HUNDRED  
35 EIGHTY DAYS AFTER THE FILING OF THE GRIEVANCE OR COMPLAINT. FOR THE PURPOSES  
36 OF THIS SUBSECTION, "DISCRIMINATORY TREATMENT OF AN EMPLOYEE" INCLUDES  
37 DISCHARGE, DEMOTION, SUSPENSION AND ANY OTHER UNFAVORABLE CHANGES IN THE  
38 TERMS OR CONDITIONS OF EMPLOYMENT, OR THE THREAT OF ANY OF THESE ACTIONS.  
39 C. AN EMPLOYEE WHO HAS BEEN DISCRIMINATED AGAINST IN EMPLOYMENT  
40 PURSUANT TO THIS SECTION IS ENTITLED TO REINSTATEMENT, TO REIMBURSEMENT FOR  
41 LOST WAGES AND WORK BENEFITS CAUSED BY THE ACTS OF THE EMPLOYER AND TO AN  
42 AWARD OF REASONABLE ATTORNEY FEES AND COSTS AS THE PREVAILING PARTY.  
43 **36-1329. Enforcement procedures**  
44 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, AN ACTION MAY BE  
45 BROUGHT PURSUANT TO THIS ARTICLE NOT LATER THAN TWO YEARS AFTER THE DATE OF  
46 THE LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS  
47 BROUGHT.  
48 B. IN THE CASE OF SUCH ACTION BROUGHT FOR A WILFUL VIOLATION OF THIS  
49 ARTICLE, AN ACTION MAY BE BROUGHT WITHIN THREE YEARS AFTER THE DATE OF THE  
50 LAST EVENT CONSTITUTING THE ALLEGED VIOLATION FOR WHICH THE ACTION IS  
51 BROUGHT.

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

6 **36-1330. Civil penalties**

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

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

16 C. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL ISSUE A  
17 NOTICE OF THE VIOLATION AND THE PENALTY PURSUANT TO TITLE 41, CHAPTER 6,  
18 ARTICLE 10. A PERSON MAY APPEAL THE PENALTY BY FILING A WRITTEN REQUEST FOR A  
19 HEARING WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE. THE DEPARTMENT SHALL  
20 CONDUCT THIS HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE DIRECTOR  
21 SHALL NOT ENFORCE THE PENALTY UNTIL THE HEARING IS CONCLUDED.

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

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

28 **36-1331. Access to records**

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

33 **36-1332. Investigative authority**

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

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

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

40 **Sec. 3. Legislative findings; collective patient advocacy**

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

52 B. The legislature finds that engaging in acts of collective patient advocacy as described in this

**1 section constitutes an exercise of the direct care registered nurse duty and right of patient advocacy.**  
**2 C. This act confirms and creates statutory patient advocacy rights for direct care registered nurses**  
**3 as provided in title 36, chapter 11, article 2, Arizona Revised Statutes, as added by this act.**