

HB 12 – Hospital Patient Protection Act
Summary prepared by Illinois Hospital Association
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New Act. Creates the “Hospital Patient Protection Act.”

Application. Applies to all hospitals defined under this new Act.

Definitions (§5). Outlines requirements including the following key items for:

- Acuity-based classification systems – includes “...the need for advocacy intervention...based on the independent judgment of the direct care registered nurse.”
- Clinical judgment – as “...expertise and experience in making independent decisions about patient care.”
- Clinical supervision – “...by a direct care registered nurse in the exclusive interests of the patient...”
- Competence – “means the ability of a direct care nurse to act and integrate...independent professional judgment...”
- Patient care units – includes critical care or intensive care; hospital units or clinical patient care area; Long-term acute care hospital (freestanding and hospital-within-hospital; Medical-surgical; Rehabilitation; Skilled nursing; Specialty care; Step-down; Telemetry.
- Hospital – Broad definition including, “any institution, place, building or agency, public or private,.... care of 2 or more unrelated persons admitted for overnight stay or longer...”
- Patient Advocacy – ...the professional obligation and right of registered nurse or registered professional nurse to act as a patient advocate by initiating action...”

Minimum Nurse-Patient Ratios (§10).

Prescribes the following numerical nurse-patient ratios for registered nurses providing direct patient care:

ED

- ✓ no fewer than two direct care registered nurses when a patient is present;
- ✓ at least one direct care registered nurse for triage who shall perform triage functions only, w/only direct care nurses assigned to triage;
- ✓ triage direct care nurses, base radio responder direct care nurses and specialty/flight nurses do not count in the nurse-pt ratio calculation;
- ✓ critical trauma patient ratio of 1:1 shall be maintained at all time.

OR

- ✓ at least one direct care registered nurse assigned to duties of circulating nurse w/a minimum of one additional person serving as scrub assistant;

Hospital clinical units or patient care areas

- ✓ 1:1
Cesarean delivery, a patient with medical or obstetrical complications, when initiating epidural anesthesia in L&D, for unstable or in resuscitation period newborn, patients receiving conscious sedation
- ✓ 1:2
Critical care, intensive care, neonatal intensive care, labor and delivery units, coronary care, acute respiratory care, post-anesthesia recovery, burn units, when assigned to critical care patients in the ED, immediate post-partum patients
- ✓ 1:3
ED, a step-down or intermediate intensive care, pediatric, telemetry, combined labor/delivery/post-partum unit or patient care area, ante-partum patients who are not in active labor, mother-baby couplets
- ✓ 1:4
Medical/surgical, pre-surgical/admission, ambulatory surgical, psychiatric, or other specialty care unit, post-partum patients, post-surgical gynecological patients, or mothers only, recently born infants, combined post-cesarean delivery mothers newborns
- ✓ 1:5
Well-baby nursery, rehabilitation unit, skilled nursing facility
- ✓ Other
In the event of multiple births, the total number of mothers plus infants assigned to a single direct care nurse shall never exceed 6.

- Only direct care registered nurses providing direct patient care shall be included in the ratios. Nurse administrators, supervisors, managers, charge nurses or case managers shall not be included in the calculation.
- The nurse-patient ratios must be maintained at any one time throughout each shift, with no averaging during any shift or over time.
- Only direct care nurses shall relieve other direct care nurses during breaks, meals and other routine, expected absences from the unit.
- Staffing for care not requiring direct care registered nurse is not included within the ratios and shall be determined by acuity-based patient classification system.
- Identifying a hospital unit by any other name or term does not affect requirement for nurse-patient ratios.
- The use of acuity-adjustable units or clinical patient care areas is prohibited.
- Prohibits hospital use of Rapid Response Teams as first responders.
- Requires written staffing plan for each patient care unit, specifying individual patient care requirements, staffing levels, and skills mix for direct care registered nurses and other licensed and unlicensed personnel. Prohibits staffing levels to fall below the requirements in this section.
- Hospitals must keep records of actual staff assignments for individual patients day- to- day, shift-by-shift on file for two years.
- Mandates each hospital to appoint a patient classification system review committee, comprised of at least 60% unit-specific competent direct care registered nurses.

- Allows collective bargaining agents to appoint their direct care registered nurses to the committee when they are represented by a collective bargaining agreement.
- Hospitals must demonstrate that immediate and diligent efforts to maintain required staffing levels, even during health care emergencies. A health care emergency is recognized as only those declared by the federal government, the state or local government entity.
- Requires IDPH within two years to complete and publish a study of licensed and unlicensed hospital nursing staff and its effects on patient safety and care in hospitals.
- Prohibits registered nurses from assigning unlicensed personnel to perform nurse functions and unlicensed nurses from performing tasks and activities that require knowledge and skill of registered nurse.
- Provides that hospitals may not use mandated overtime or impose lay-offs of licensed or unlicensed nurses, certified nursing assistants, or other ancillary staff to meet mandated nurse-patient ratios.
- Requires hospitals to post in a conspicuous place visible to patients, staff and public the day-day, shift-by-shift ratios of (1) direct care nurse staff to patients on each unit; (2) additional staffing requirements determined by patient classification system for each unit; (3) the actual staff and staff mix provided; (4) the variance between required and actual staffing patterns.
- Provides that every hospital will give each admitted patient a toll-free number to IDPH to report inadequate staffing or care.

Direct Care Registered Nurse Functions Relating to Patient Care (§15).

Outlines essential functions that registered nurses shall directly perform when “exercising independent judgment in applying the nursing process”:

- Includes that information related to patient’s initial assessment and reassessments, nursing diagnosis...and patient advocacy shall be permanently recorded in the patient’s medical record. Expressly prohibits the practice of “charting by exception”.
- Authorizes only registered nurses to perform patient assessments. Licensed practical nurse may assist a direct care nurse in data collection.
- Requires the exercise of independent judgment in the “exclusive” interests of the patient that is unencumbered by the commercial or revenue-generation priorities of a hospital or other employing entity of a direct care nurse.

Patient Advocacy (§20).

- Provides for registered nurses’ right to act a patient’s advocate.
- Allows nurse to determine whether he or she is clinically competent to accept or refuse patient assignment.
- Refusal is deemed an exercise of the direct care nurse’s duty and right of patient advocacy.

- Provides for direct care nurse to seek clarification of patient orders, allowing nurse to refuse to implement the order(s) if the nurse determines the order is not in the best interest of the patient.
- Seeking order clarification and refusing to implement an order is regarded as an exercise of the direct care nurse's duty and right of patient advocacy.
- Provides that every direct care nurse has the right of free speech and protections for exercising that right both during working and off-duty hours. Free speech protections extend to facts of particular events, patient care practices, institutional actions, policies or conditions, adverse patient outcomes, sentinel or reportable events.
- Direct care nurse's fiduciary duty is to assigned patients that are within their practice scope and professional responsibility, and are not to be influenced by the interests of a third party.
- Permits direct care nurses to form, join or participate in independent hospital-based professional practice committees and to seek representation in collective bargaining with hospital employer.
- Statutory patient advocacy rights created and provided in this section are enforceable under Article 25.
- Expressly prohibits hospitals from engaging in policies, practices or actions to limit nurse's advocacy rights or obligations, including engaging in any technology deployment that limits a direct care registered nurse from performing functions that are part of nursing process or acting as a patient advocate.

Enforcement of Rights (§25).

- Hospital employers are liable to employees for damages and interest equal to wages, salaries, benefits or other compensation lost to employee as result of a violation.
- Actions may be brought under the Act for two years following the date of alleged violation.
- Any hospital's discriminatory treatment towards patients or direct care nurses raises a rebuttable presumption that the hospital's conduct was retaliation for a filed grievance.
- Allows IDPH to impose civil monetary penalties on hospitals not to exceed \$25,000 per violation.
- Provides that IDPH may also impose \$20,000 civil penalty fines if any members of hospital's management, nursing service or medical personnel violate or interfere with rights or protections under the Act.
- Any hospital violating the prescribed nurse-patient ratios is subject to another \$25,000/violation and an additional \$10,000 per nursing unit/shift until the violation is corrected.
- Penalties collected pursuant to this section are to be deposited into the General Revenue Fund.

- Mandates posting provisions as outlined in section 15 and 20 in a prominent place for employees, patients and the public w/specified 35 point bold typeface and required statement, “RIGHTS OF REGISTERED NURSES AS PATIENT ADVOCATES AND OF EMPLOYEES AND PATIENTS”.

Amendatory Provisions (§90).

- Amends the Hospital Licensing Act (210ILCS 85/2.5) so that in case of conflict between two Acts, the Hospital Patient Protection Act controls.
- Amends the Nurse Practice Act (225 ILCS 65/50-17) so that in case of conflict between two Acts, the Hospital Patient Protection Act controls.