

SENATE No. 557

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to patient safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>

<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>

SENATE No. 557

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 557) of Marc R. Pacheco, Sal N. DiDomenico, Michael F. Rush, Walter F. Timilty and other members of the General Court for legislation relative to patient safety. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 543 OF 2011-2012.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act relative to patient safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. section 20 of Chapter 12C of the General laws, as amended by Chapter 224
2 of the Acts of 2012, is hereby amended by inserting the following new sections:-

3 (e). The center shall require hospitals, nursing homes, chronic care and rehabilitation
4 hospitals, other specialty hospitals, clinics, including mental health clinics, all other health care
5 institutions, organizations and corporations licensed or registered by the department of public
6 health and health maintenance organizations as defined in chapter 176G to annually report
7 appropriate data to the center. This data will be posted and made available to the general public
8 on the website and include but not be limited to:

9 i. measures which differentiate between severity of patient illness, readmission rates,
10 length of stay, patient/family satisfaction with care, nurse satisfaction and nurse vacancy rates;

11 ii. indicators of the nature and amount of nursing care directly provided by licensed
12 nurses including, but not limited to, the actual and the average ratio of registered nurses to
13 patients or residents and the actual and the average skill mix ratio of licensed and supervised
14 unlicensed personnel to patients or residents, and statistics as defined by the National Quality
15 Forum (NQF) and/or the Center for Medicare and Medicaid Services (CMS) on the number of

16 falls, number of incidents of failure to rescue, number of health care acquired infections,
17 including sepsis and pneumonia, and number of medication errors.

18 iii. documentation of defined nursing interventions such as clinical assessment by a
19 licensed provider, pain measurement and management, skin integrity management, patient
20 education and discharge planning; and

21 iv. documentation of patient safety measures such as restraint checks, seizure precautions
22 and suicidal precautions, to enable purchasers of group health insurance policies and health care
23 services and for the public at large to make meaningful financial and quality of care
24 comparisons.

25 (f). The center shall consult with interested parties, including but not limited to; the group
26 insurance commission, the Massachusetts nurses association, the Massachusetts health data
27 consortium, the Massachusetts hospital association, the public health council, Massachusetts
28 senior action council, associated industries of Massachusetts, a large labor union, the division of
29 medical assistance, the board of registration in nursing, the division of insurance, the
30 Massachusetts association of health maintenance organizations, and a national council of quality
31 assurance accreditation expert to develop methodologies for collecting and reporting data
32 pursuant to this section and to plan for its use and dissemination to culturally diverse
33 populations.

34 (g). Subject to the provisions of section 2(c) of chapter 66A, information collected by the
35 center pursuant to this section shall be made available annually in the form of printed reports and
36 through electronic medium derived from raw data and/or through computer-to-computer access.
37 All personal data shall be maintained with the physical safeguards enumerated in said chapter.

38 SECTION 2. Section 70E of Chapter 111 of the General Laws, as appearing in the 2010
39 Official Edition, is hereby amended by striking out in line 89 the word “and”.

40 SECTION 3. Said section 70E of said Chapter 111, as so appearing, is hereby further
41 amended by striking out in line 99 the word “foregoing.” and adding, the following words
42 “foregoing; and”.

43 SECTION 4. Said section 70E of said Chapter 111, as so appearing, is hereby further
44 amended by adding at the end thereof the following new subsection:—

45 (o) upon request, to receive from a duly authorized representative of the facility,
46 disclosure of

47 nursing sensitive outcome data as defined by NQF and/or CMS for statistics including
48 but not limited to, the actual and the average ratio of registered nurses to patients or residents and
49 the actual and the average skill mix ratio of licensed and supervised unlicensed personnel to
50 patients or residents, the number of falls, the number of incidents of failure to rescue, the number

51 of health care acquired infections, including sepsis and pneumonia, and the number of
52 medication errors, and further, upon request, to receive from said duly authorized representative
53 information regarding the educational preparation and length of employment of said facility’s
54 nursing staff, as well as information on nurse satisfaction and nurse vacancy rates, and to receive
55 a copy of the comparative nursing care data report as outlined in chapter 118G, section 24
56 subsection (a). The fee for said report shall be determined by the rate of reasonable copying
57 expenses.

58 SECTION 5. Chapter 111 of the General Laws, as amended by Chapter 224 of the Acts
59 of 2012, is hereby amended by adding the following 9 sections:—

60 Section 229. As used in sections 229 to 237, inclusive, the following words shall, unless
61 the context clearly requires otherwise, have the following meanings:—

62 “Adjustment of standards”, the adjustment of nurse’s patient assignment standards in
63 accordance with patient acuity according to, or in addition to, direct-care registered nurse
64 staffing levels determined by the nurse manager, or his designee, using the patient acuity system
65 developed by the department and any alternative patient acuity system utilized by hospitals, if
66 said system is certified by the department.

67 “Acuity”, the intensity of nursing care required to meet the needs of a patient; higher
68 acuity usually requires longer and more frequent nurse visits and more supplies and equipment.

69 “Assignment”, the provision of care to a particular patient for which a direct-care
70 registered nurse has responsibility within the scope of the nurse’s practice, notwithstanding any
71 general or special law to the contrary.

72 “Assist”, patient care that a direct-care registered nurse may provide beyond his patient
73 assignments if the tasks performed are specific and time-limited.

74 “Board”, the board of registration in nursing.

75 “Circulator”, a direct-care registered nurse devoted to tracking key activities in the
76 operating room.

77 “Department”, the department of public health.

78 “Direct-care registered nurse”, a registered nurse who has accepted direct responsibility
79 and
80 accountability to carry out medical regimens, nursing or other bedside care for patients.

81 “Facility”, a hospital licensed under section 51, the teaching hospital of the University of
82 Massachusetts medical school, any licensed private or state-owned and state-operated general
83 acute care hospital, an acute psychiatric hospital, an acute care specialty hospital, or any acute

84 care unit within a state-operated facility. As used in sections 221 to 229, inclusive, this definition
85 shall not include rehabilitation facilities or long-term acute care facilities.

86 “Float nurse”, a direct-care registered nurse that has demonstrated competence in any
87 clinical area that he may be requested to work and is not assigned to a particular unit in a facility.

88 “Health Care Workforce”, personnel that have an effect upon the delivery of quality care
89 to patients, including but not limited to, licensed practical nurses, unlicensed assistive personnel
90 and/or other service, maintenance, clerical, professional and/or technical workers and other
91 health care workers.

92 “Nurse’s patient limit”, the maximum number of patients assigned to each direct-care
93 registered nurse at one time on a particular unit.

94 “Monitor in moderate sedation cases”, a direct-care registered nurse devoted to
95 continuously monitoring his patient’s vital statistics and other critical symptoms.

96 “Nurse manager”, the registered nurse, or his designee, whose tasks include, but are not
97 limited to, assigning registered nurses to specific patients by evaluating the level of experience,
98 training, and education of the direct-care nurse and the specific acuity levels of the patient.

99 “Nurse’s patient assignment standard”, the optimal number of patients to be assigned to
100 each direct-care registered nurse at one time on a particular unit.

101 “Nursing care”, care which falls within the scope of practice as defined in section 80B of
102 chapter 112 or is otherwise encompassed within recognized professional standards of nursing
103 practice, including assessment, nursing diagnosis, planning, intervention, evaluation and patient
104 advocacy.

105 “Overwhelming patient influx”, an unpredictable or unavoidable occurrence at
106 unscheduled or

107 unpredictable intervals that causes a substantial increase in the number of patients
108 requiring emergent and immediate medical interventions and care, a declared national or state
109 emergency, or the activation of the health care facility disaster diversion plan to protect the
110 public health or safety.

111 “Patient acuity system”, a measurement system that is based on scientific data and
112 compares the registered nurse staffing level in each nursing department or unit against actual
113 patient nursing care requirements of each patient, taking into consideration the health care
114 workforce on duty and available for work appropriate to their level of training or education, in
115 order to predict registered nursing direct-care requirements for individual patients based on the
116 severity of patient illness. Said system shall be both practical and effective in terms of hospital
117 implementation.

118 “Teaching hospital”, a facility as defined in section 51 that meets the teaching facility
119 definition of the American Association of Medical Colleges.

120 “Temporary nursing service agencies”, also known as the nursing pool as defined in
121 section 72Y, and as regulated by the department.

122 “Unassigned registered nurse”, includes, but not limited to, any nurse administrator,
123 nurse supervisor, nurse manager, or charge nurse that maintains his registered nurse licensing
124 certification but is not assigned to a patient for direct care duties.

125 Section 230. The department shall reevaluate the numbers that comprise the nurse’s
126 patient assignment standards and nurse’s patient limits and the patient acuity system in the
127 evaluation period and then every 3 years thereafter, taking into consideration evolving
128 technology or changing treatment protocols and care practices and other relevant clinical factors.

129 Section 231. (a) The department shall develop nurse’s patient assignment standards
130 which shall be an ideal number of patients assigned to a direct-care registered nurse that will
131 promote equal, high-quality, and safe patient care at all facilities. The standards shall form the
132 basis of nurse staffing plans set forth in section 233. The department shall use, at a minimum, the
133 following information to develop nurse’s patient assignment standards for all facilities: (1)
134 Massachusetts specific data, including, but not limited to, the role of registered nurses in the
135 commonwealth by type of unit, the current staffing plans of facilities, the relative experience and
136 education of registered nurses, the variability of facilities, and the needs of the patient
137 population; (2) fluctuating patient acuity levels; (3) variations among facilities and patient care
138 units; (4) scientific data related to patient outcomes, a rigorous analysis of clinical data related to
139 patient outcomes and valid nationally recognized scientific evidence on patient care, facility
140 medical error rates, and health care quality measures; (5) availability of technology; (6) treatment
141 modalities within behavioral health facilities; and (7) public testimony from both the public and
142 experts within the field.

143 (b) The nurse’s patient assignment standards may be adjustable and flexible, as
144 determined by the department, to consider factors, including but not limited to; varying patient
145 acuity, time of day, and registered nurse experience. The number of patients assigned to each
146 direct-care registered nurse may not be averaged. The nurse’s patient assignment standards may
147 not refer to a total number of patients and a total number of direct-care registered nurses on a unit
148 and shall not be factored over a period of time.

149 (c) The department shall develop nurse’s patient limits which represent the maximum
150 number of patients to be safely assigned to each direct-care registered nurse at one time on a
151 particular unit. The number of patients assigned to each direct-care registered nurse shall not be
152 averaged and each limit shall pertain to only one direct-care registered nurse. Nurse’s patient
153 limits shall not refer to a total number of patients and a total number of direct-care registered
154 nurses on a unit and shall not be factored over a period of time. A facility’s failure to adhere to

155 these nurse's patient limits shall result in non-compliance with this section and the facility shall
156 be subject to the enforcement procedures herein and section 236.

157 (d) If the commissioner finds that, for any unit, the department cannot arrive at a
158 rationally based limit using available scientific data, the commissioner shall report to: (1) the
159 clerks of the house of representatives and the senate who shall forward the same to the speaker of
160 the house of representatives, the president of the senate , the chairs of the joint committee on
161 public health, and the joint committee on state administration and regulatory oversight; (2) the
162 commissioner of the division of health care financing and policy; and (3) the nursing advisory
163 board as defined in section 16H of chapter 6A, the reasons for the department's failure to arrive
164 at a rationally based limit and the data necessary for the department to determine a limit by the
165 next review period.

166 (e) The setting of nurse's patient assignment standards and nurse's patient limits for
167 registered nurses shall not result in the understaffing or reductions in staffing levels of the health
168 care workforce. The availability of the health care workforce enables registered nurses to focus
169 on the nursing care functions that only registered nurses, by law, are permitted to perform and
170 thereby helps to ensure adequate staffing levels.

171 (f) Nurse's patient assignment standards and nurse's patient limits shall be determined for
172 the following departments, units or types of nursing care:— intensive care units, (a) critical
173 patient(s) (b) critical unstable patient(s); critical care units, (a) critical patient(s) (b) critical
174 unstable patient(s); neo-natal intensive care (a) critical patient(s) (b) critical unstable patient(s);
175 burn units (a) critical patient(s) (b)critical unstable patient(s); step-down/intermediate care;
176 operating rooms, (a) not to include a registered nurse working as a circulator (b) to be
177 determined for registered nurse working as a monitor in moderate sedation cases; post anesthesia
178 care with the patient remaining under anesthesia; post-anesthesia care with the patient in a post-
179 anesthesia state; emergency department overall; emergency critical care, provided that the triage,
180 radio or other specialty registered nurse is not included; emergency trauma; labor and delivery
181 with separate standards for (i) a patient in active labor, (ii) patients, or couplets, in immediate
182 postpartum, and (iii) patients, or couplets, in postpartum; intermediate care nurseries; well-baby
183 nurseries; pediatric units; psychiatric units; medical and surgical; telemetry; observational/out-
184 patient treatment; transitional care; acute inpatient rehabilitation; specialty care unit; and any
185 other units or types of care determined necessary by the department.

186 (g) The department shall jointly, with the department of mental health, develop nurse's
187 patient assignment standards and nurse's patient limits in acute psychiatric care units. These
188 standards and limits shall not interfere with the licensing standards of the department of mental
189 health.

190 (h) Nothing in this section shall exempt a facility that identifies a unit by a name or term
191 other than those used in this section, from complying with the nurse's patient assignment

192 standards and nurse's patient limits and other provisions established in this section for care
193 specific to the types of units listed.

194 Section 232. (a) The department shall develop a patient acuity system, as defined in
195 section 229. The department may also certify patient acuity systems developed or utilized by
196 facilities. Patient acuity systems shall include standardized criteria determined by the
197 department. The patient acuity system shall be used by facilities to: (1) assess the acuity of
198 individual patients and assign a value, within a numerical scale, to each individual patient; (2)
199 establish a methodology for aggregating patient acuity; (3) monitor and address the fluctuating
200 level of acuity of each patient; (4) supplement the nurse's patient assignments and indicate the
201 need for adjustment of direct-care registered nurse staffing as patient acuity changes; and (5)
202 assess the need for health care workforce staff to ensure nurses' focus on the delivery of patient
203 care.

204 (b) The patient acuity system designed by the department or other patient acuity system
205 used by a facility and certified by the department shall be used in determining adjustments in the
206 number of direct-care registered nurses due to the following factors: (1) the need for specialized
207 equipment and technology; (2) the intensity of nursing interventions required and the complexity
208 of clinical nursing judgment needed to design, implement and evaluate the patient's nursing care
209 plan consistent with professional standards of care; (3) the amount of nursing care needed, both
210 in number of direct-care registered nurses and skill mix of members of the health care workforce
211 necessary to the delivery of quality patient care required on a daily basis for each patient in a
212 nursing department or unit, the proximity of patients, the proximity and availability of other
213 resources, and facility design; (4) appropriate terms and language that are readily used and
214 understood by direct-care registered nurses; and (5) patient care services provided by registered
215 nurses and the health care workforce.

216 (c) The patient acuity system shall include a method by which facilities may adjust a
217 nurse's patient assignments within the limits determined by the department as follows: (1) a
218 nurse manager or designee shall adjust the patient assignments according to the patient acuity
219 system whenever practicable as determined by need; (2) a nurse manager or designee shall adjust
220 the patient assignments when the department-developed or certified patient acuity system
221 indicates a change in acuity of any particular patient to the extent that it triggers an alert
222 mechanism tied to the aggregate patient acuity; (3) a nurse manager or designee shall be
223 responsible for reassigning patients to comply with the patient acuity system, provided that the
224 nurse manager may rearrange patient assignments within the direct-care registered nurses already
225 under management and may also utilize an available float nurse; (4) at any time, any registered
226 nurse may assess the accuracy of the patient acuity system as applied to a patient in the
227 registered nurse's care. Nothing in this section shall supersede or replace any requirements
228 otherwise mandated by law, regulation or collective bargaining contract so long as the facility
229 meets the requirements determined by the department.

230 Section 233. As a condition of licensing by the department, each facility shall submit
231 annually to the department a prospective staffing plan with a written certification that the staffing
232 plan is sufficient to provide adequate and appropriate delivery of health care services to patients
233 for the ensuing year. A staffing plan shall: (1) incorporate information regarding the number of
234 licensed beds and amount of critical technical equipment associated with each bed in the entire
235 facility; (2) adhere to the nurse's patient assignment standards; (3) employ the department -
236 developed or facility-developed or any alternative patient acuity system developed or utilized by
237 a facility and certified by the department when addressing fluctuations in patient acuity levels
238 that may require adjustments in registered nurse staffing levels as determined by the department;
239 (4) provide for orientation of registered nursing staff to assigned clinical practice areas, including
240 temporary assignments; (5) include other unit or department activity such as discharges, transfers
241 and admissions, and administrative and support tasks that are expected to be done by direct-care
242 registered nurses in addition to direct nursing care; (6) include written reports of the facility's
243 patient aggregate outcome data; (7) incorporate the assessment criteria used to validate the acuity
244 system relied upon in the plan; and (8) include services provided by the health care workforce
245 necessary to the delivery of quality patient care. As a condition of licensing, each facility shall
246 submit annually to the department an audit of the preceding year's staffing plan. The audit shall
247 compare the staffing plan with measurements of actual staffing, as well as measurements of
248 actual acuity for all units within the facility assessed through the patient acuity system.

249 Section 234. (a) A direct-care registered nurse at the beginning of the nurse's shift will be
250 assigned to a certain patient or patients by the nurse manager, who shall use professional
251 judgment in so assigning, provided that the number of patients so assigned shall not exceed the
252 nurse's patient limit associated with the unit.

253 (b) An unassigned registered nurse may be included in the counting of the nurse to
254 patient assignment standards only when that unassigned registered nurse is providing direct care.
255 When an unassigned registered nurse is engaged in activities other than direct patient care, that
256 nurse shall not be included in the counting of the nurse to patient assignments. Only an
257 unassigned registered nurse, who has demonstrated current competence to the facility to provide
258 the level of care specific to the unit to which the patient is admitted, may relieve a direct-care
259 registered nurse from said unit during breaks, meals, and other routine and expected absences.

260 (c) Nothing in this section shall prohibit a direct-care registered nurse from assisting with
261 specific tasks within the scope of the nurse's practice for a patient assigned to another nurse.

262 (d) Each facility shall plan for routine fluctuations in patient census. In the event of an
263 overwhelming patient influx, said facility shall demonstrate that prompt efforts were made to
264 maintain required staffing levels during the influx and that mandated limits were reestablished as
265 soon as possible, and no longer than a total of 48 hours after termination of the event, unless
266 approved by the department.

267 Section 235. (a) No facility shall directly assign any unlicensed personnel to perform
268 non-delegable licensed nurse functions to replace care delivered by a licensed registered nurse.
269 Unlicensed personnel are prohibited from performing functions which require the clinical
270 assessment, judgment and skill of a licensed registered nurse. Such functions shall include, but
271 not be limited to: (1) nursing activities which require nursing assessment and judgment during
272 implementation; (2) physical, psychological, and social assessment which requires nursing
273 judgment, intervention, referral or follow-up; (3) formulation of the plan of nursing care and
274 evaluation of the patient's response to the care provided; (4) administration of medications; and
275 (5) health teaching and health counseling. (b) For purposes of compliance with this section, no
276 registered nurse shall be assigned to a unit or a clinical area within a facility unless the registered
277 nurse has an appropriate orientation in the clinical area sufficient to provide competent nursing
278 care and has demonstrated current competency levels through accredited institutions and other
279 continuing education providers.

280 Section 236. (A) If a facility can reasonably demonstrate to the department, with
281 sufficient documentation as determined by the appropriate entity, the attorney general or the
282 division of health care finance and policy, extreme financial hardship as a consequence of
283 meeting the requirements set forth in sections 229 to 237, inclusive, then the facility may apply
284 to the department for a waiver of up to 9 months.

285 (B) As a condition of licensing, a facility required to have a staffing plan under this
286 section shall make available daily on each unit the written nurse staffing plan to reflect the
287 nurse's patient assignment standard and the nurse's patient limit as a means of consumer
288 information and protection.

289 (C) The department shall enforce paragraphs (1) to (6), inclusive, as follows: (1) If the
290 department determines that there is an apparent pattern of failure by a facility to maintain or
291 adhere to nurse's patient limits in accordance with sections 229 to 236, inclusive, the facility
292 may be subject to an inquiry by the department to determine the causes of the apparent pattern.
293 If, after such inquiry, the department determines that an official investigation is appropriate and
294 after issuance of written notification to the facility, the department may conduct an investigation.
295 Upon completion of the investigation and a finding of noncompliance, the department shall give
296 written notification to the facility as to the manner in which the facility failed to comply with
297 sections 229 to 236, inclusive. Facilities shall be granted due process during the investigation,
298 which shall include the following: (a) notice shall be granted to facilities that are noncompliant
299 with sections 229 to 236, inclusive; (b) facilities shall be afforded the opportunity to submit to
300 the department, through written clarification, justifications for failure to comply with sections
301 229 to 236, inclusive, if so determined by said department, including, but not limited to, patient
302 outcome data and other resources and personnel available to support the registered nurse and
303 patients in the unit, provided however, that facilities shall bear the burden of proof for any and
304 all justifications submitted to the department; (c) based upon such justifications, the department
305 may determine any corrective measures to be taken, if any. Such measures may include: (i) an

306 official notice of failure to comply; (ii) the imposition of additional reporting and monitoring
307 requirements; (iii) revocation of said facility's license or registration; and (iv) the closing of the
308 particular unit that is noncompliant. (2) Failure to comply with limited nurse staffing
309 requirements shall be evidence of noncompliance with this section. (3) Failure to comply with
310 the provisions of this section is actionable. (4) If the department issues an official notice of
311 failure to comply, as set forth in paragraph (1) of subsection (C) and subclause (i) of clause (c) of
312 said paragraph (1) following submission to and adjudication by the department of justifications
313 for failure to comply submitted by a facility pursuant to clause (b) of paragraph (1) of said
314 subsection (C) to a facility found in noncompliance with limits, the facility shall prominently
315 post its notice within each noncompliant unit. Copies of the notice shall be posted by the facility
316 immediately upon receipt and maintained for 14 consecutive days in conspicuous places
317 including all places where notices to employees are customarily posted. The department shall
318 post the notices on its website immediately after a finding of noncompliance. The notice shall
319 remain on the department's website for 14 consecutive days or until such noncompliance is
320 rectified, whichever is longer. (5) If a facility is repeatedly found in noncompliance based on a
321 pattern of failure to comply as determined by the department, the commissioner may fine the
322 facility not more than \$3,000 for each finding of noncompliance. (6) Any facility may appeal any
323 measure or fine sought to be enforced by the department hereunder to the division of
324 administrative law appeals and any such measure or fine shall not be enforced by the department
325 until final adjudication by the division. (7) The department may promulgate rules and regulations
326 necessary to enforce this section.

327 Section 237. The department of public health shall provide for (1) an accessible and
328 confidential system to report any failure to comply with requirements of sections 229 to 236,
329 inclusive, and (2) public access to information regarding reports of inspections, results,
330 deficiencies and corrections under said sections 229 to 236, inclusive, unless such information is
331 restricted by law or regulation. Any person who makes such a report shall identify themselves
332 and substantiate the basis for the report; provided, however, that the identity of said person shall
333 be kept confidential by the department.

334 SECTION 6. The department of public health shall include in its regulations pertaining to
335 temporary nursing service agencies, or nursing pools, as defined in section 72Y of chapter 111 of
336 the General Laws, and as regulated by the department, parameters in which the department shall
337 deny registration and operation of said agencies only if the agency attempts to increase costs to
338 facilities by at least 10 per cent.

339 SECTION 7. The department of public health shall submit 2 written reports on its
340 progress in carrying out this act. Said department shall report to the general court the results of
341 its 2 written reports to the clerks of the house of representatives and the senate who shall forward
342 the same to the president of the senate, the speaker of the house of representatives, the chairs of
343 the joint committee on public health. The first report shall be filed on or before March 1, 2014
344 and the second report shall be filed on or before December 1, 2015.

345 SECTION 8. The department of public health shall initially evaluate the numbers that
346 comprise the nurse's patient assignment standards and nurse's patient limits set forth in sections
347 221 to 228, inclusive of chapter 111 of the General Laws on or before January 1, 2017.

348 SECTION 9. The department of public health, shall develop a comprehensive statewide
349 plan to promote the nursing profession in collaboration with: the executive office of housing and
350 economic development, the board of education, the board of higher education, the board of
351 registration in nursing, the Massachusetts Nurses Association, 1199SEIU, the Massachusetts
352 Hospital Association, Inc., the Massachusetts Organization of Nurse Executives Inc., and any
353 other entity deemed relevant by the department. The plan shall include specific recommendations
354 to increase interest in the nursing profession and increase the supply of registered nurses in the
355 workforce, including recommendations that may be carried out by state agencies. The plan shall
356 be filed with the clerks of the house of representatives and the senate, who shall forward the
357 same to the president of the senate and the speaker of the house of representatives on or before
358 April 15, 2014.

359 SECTION 10. Teaching hospitals, as defined in section 229 of chapter 111 of the General
360 Laws, shall meet the applicable requirements of sections 229 to 237, inclusive of said chapter
361 111 of the General Laws on or before October 1, 2014. All other facilities, as defined in section
362 229 of chapter 111 of the General Laws, shall meet the applicable requirements of sections 229
363 to 237, inclusive of said chapter 111 of the General Laws no later than October 1, 2014.

364 SECTION 11. Section 8 shall take effect on December 1, 2018.

365 SECTION 12. The department of public health shall, on or before January, 1, 2014,
366 promulgate

367 regulations defining criteria and proscribing the process for establishing or certifying by
368 the department a standardized patient acuity system, as defined in section 229 of chapter 111 of
369 the General Laws, developed or utilized by a facility as defined in said section 229 of said
370 chapter 111.

371 SECTION 13. The department of public health shall, on or before March 1, 2014,
372 develop a standardized patient acuity system or certify a facility developed or utilized patient
373 acuity systems, as defined in section 229 of chapter 111 of the General Laws, to be utilized by all
374 facilities to monitor the number of direct-care registered nurses needed to meet patient acuity
375 level.

376 SECTION 14. The department of public health shall, on or before June 1, 2014, establish,
377 but not before the development or certification of standardized patient acuity systems, nurse's
378 patient assignment standards and nurse's patient limits as defined in section 229 of chapter 111
379 of the General Laws.

380 SECTION 15. The department of public health shall, on or before June 1, 2014,
381 promulgate regulations to implement the requirements of section 237 of chapter 111 of the
382 General Laws.