

26-LS0274 M

Wayne

4/14/09

CS FOR HOUSE BILL NO. 50()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY**Offered:****Referred:****Sponsor(s): REPRESENTATIVES WILSON, GARA, TUCK, PETERSEN, LYNN, SEATON, GATTO, CISSNA, MUÑOZ, AND GARDNER, Ramras, Foster, Kerttula****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to limitations on mandatory overtime for registered nurses and**
2 **licensed practical nurses in health care facilities; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** The legislature finds that

7 (1) it is essential that registered nurses and licensed practical nurses providing
8 direct patient care be available to meet the needs of patients;

9 (2) quality patient care is jeopardized by registered nurses and licensed
10 practical nurses who work unnecessarily long hours in health care facilities;

11 (3) registered nurses and licensed practical nurses are leaving their profession
12 because of workplace stresses, long work hours, and depreciation of their essential role in the
13 delivery of quality and direct patient care;

14 (4) it is necessary to safeguard the efficiency, health, and general well-being

1 of registered nurses and licensed practical nurses, and the health and general well-being of the
2 persons receiving care from registered nurses and licensed practical nurses in health care
3 facilities;

4 (5) it is necessary that registered nurses and licensed practical nurses be made
5 aware of their rights, duties, and remedies concerning hours worked and patient safety; and

6 (6) health care facilities should provide adequate and safe nurse staffing
7 without the need for or use of mandatory overtime.

8 * **Sec. 2.** AS 18.20 is amended by adding new sections to read:

9 **Article 4. Overtime Limitations for Nurses.**

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in

11 (c) of this section, a nurse in a health care facility may not be required or coerced,
12 directly or indirectly,

13 (1) to work beyond a predetermined and regularly scheduled shift that
14 is agreed to by the nurse and the health care facility; or

15 (2) to accept an assignment of overtime if, in the judgment of the
16 nurse, the overtime would jeopardize patient or employee safety.

17 (b) Except as provided by (c) of this section, after working a predetermined
18 and regularly scheduled shift that is agreed to by the nurse and the health care facility
19 as authorized by (a)(1) of this section, a nurse in a health care facility shall be allowed
20 not less than 10 consecutive hours of off-duty time immediately following the end of
21 that work.

22 (c) Subsection (a) of this section does not apply to

23 (1) a nurse who is employed by a health care facility providing
24 services for a school, school district, or other educational institution, when the nurse is
25 on duty for more than 14 consecutive hours during an occasional special event, such as
26 a field trip, that is sponsored by the employer;

27 (2) a nurse voluntarily working overtime on an aircraft in use for
28 medical transport, so long as the shift worked is allowable under regulations adopted
29 by the Board of Nursing based on accreditation standards adopted by the Commission
30 on Accreditation of Medical Transport Systems;

31 (3) a nurse on duty in overtime status

1 (A) who is participating in the performance of a medical
2 procedure or surgery that has begun but has not been completed;

3 (B) because of an unforeseen emergency situation that could
4 jeopardize patient safety; in this subparagraph, "unforeseen emergency
5 situation" means an unusual, unpredictable, or unforeseen situation caused by
6 an act of terrorism, disease outbreak, natural disaster, major disaster as defined
7 in 42 U.S.C. 5122, or disaster emergency under AS 26.23.020 or 26.23.140,
8 but does not include a situation in which a health care facility has reasonable
9 knowledge of increased patient volume or inadequate staffing because of some
10 other cause, if that cause is foreseeable;

11 (C) because the health care facility has a scheduling problem
12 caused by unforeseen weather conditions that prevent a second nurse from
13 arriving at the facility to relieve the nurse on duty; in this subparagraph,
14 "unforeseen weather conditions" means unusual, unpredictable, or unforeseen
15 weather so extreme as to impair travel to the health care facility, but does not
16 include a situation in which the health care facility has knowledge of the
17 weather conditions far enough in advance to act so that a scheduling problem
18 under this subparagraph can reasonably be avoided; or

19 (D) at a health care facility located in a rural community that
20 declares a temporary nurse staffing emergency under AS 18.20.410;

21 (4) a nurse fulfilling on-call time that is agreed on by the nurse and a
22 health care facility before it is scheduled unless fulfilling the on-call time would, in the
23 nurse's judgment, create an unacceptable risk to the physical safety of the nurse, a
24 patient, or an employee of the facility;

25 (5) a nurse voluntarily working overtime so long as the work is
26 consistent with professional standards and safe patient care and does not exceed 14
27 consecutive hours;

28 (6) a nurse voluntarily working beyond 80 hours in a 14-day period so
29 long as the nurse does not work more than 14 consecutive hours without a 10-hour
30 break and the work is consistent with professional standards and safe patient care;

31 (7) a nurse who

1 (A) is employed

2 (i) at a psychiatric treatment hospital that treats only
3 adolescents and children;

4 (ii) at a residential psychiatric treatment center under
5 AS 18.07.111 or AS 47.12.990; or

6 (iii) at a secure residential psychiatric treatment center
7 under AS 47.32.900;

8 (B) voluntarily agrees to work a 16-hour shift for the period
9 between 5:00 p.m. on a Friday and 8:00 a.m. on the Monday that immediately
10 follows and receives pay and benefits for that work that are equal to or greater
11 than the pay and benefits the nurse would receive for working 20 regular hours
12 in the same position; and

13 (C) during the period described in (B) of this paragraph does
14 not work a 16-hour shift consecutive with another shift of eight hours or more
15 without an intervening break of at least eight hours;

16 (8) the first two hours on overtime status when the health care facility
17 is obtaining another nurse to work in place of the nurse in overtime status, so long as
18 the nurse in overtime status is not on duty for more than 14 consecutive hours.

19 **Sec. 18.20.410. Temporary nurse staffing emergency.** (a) If, after making a
20 substantial and reasonable effort to increase the number of available nurses on staff
21 and failing in that effort, a health care facility in a rural community determines it is not
22 able to meet the overtime limitations in AS 18.20.400 without putting the safety of its
23 patients at risk of serious harm, the health care facility may declare a temporary nurse
24 staffing emergency. A declaration of a temporary nurse staffing emergency under this
25 section

26 (1) must be made in a writing, signed by the administrator of the health
27 care facility or the administrator's designee, that describes the facility's reasonable
28 effort to avoid the temporary nurse staffing emergency; and

29 (2) may not exceed 30 days.

30 (b) Immediately after declaring a temporary nurse staffing emergency under
31 (a) of this section, a health care facility shall file with the division of labor standards

1 and safety, Department of Labor and Workforce Development, a report that includes a
2 copy of the signed writing required under (a) of this section. A report under this
3 subsection is a public document.

4 (c) In addition to the requirements of (a) and (b) of this section, a health care
5 facility shall notify the legislature immediately by delivery of a written report to the
6 Alaska Legislative Council each time the facility declares a temporary nurse staffing
7 emergency under AS 18.20.400(c) that exceeds two occurrences in a six-month period
8 that begins on January 1 or July 1 of the year in which the declaration occurs, or three
9 occurrences in the one-year period that begins on January 1 of that year. A report
10 under this subsection must include a copy of each report that is required of the health
11 care facility under (b) of this section for the one-year period that begins on January 1
12 of the year the excessive declaration under this subsection occurs.

13 **Sec. 18.20.420. Health care facility complaint process for overtime work**
14 **by nurses.** A health care facility shall provide for an anonymous process by which a
15 patient or a nurse may make a complaint about staffing levels and patient safety that
16 relate to overtime work by nurses and to limitations on overtime work by nurses under
17 AS 18.20.400.

18 **Sec. 18.20.430. Enforcement, offenses, and penalties.** (a) The commissioner
19 shall administer AS 18.20.400 - 18.20.499 and adopt regulations for implementing and
20 enforcing AS 18.20.400 - 18.20.499.

21 — (b) A complaint alleging a violation of AS 18.20.400 - 18.20.499 must be filed
22 with the commissioner within 30 days after the date of the alleged violation. The
23 commissioner shall provide a copy of the complaint to the health care facility named
24 in the filing within three business days after receiving the complaint.

25 (c) If the commissioner finds that a health care facility has knowingly violated
26 an overtime provision of AS 18.20.400 - 18.20.499, the following civil penalties shall
27 apply:

28 (1) for a first violation of AS 18.20.400 - 18.20.499, the commissioner
29 shall reprimand the health care facility;

30 (2) for a second violation of AS 18.20.400 - 18.20.499 within 12
31 months, the commissioner shall reprimand the health care facility and assess a penalty

1 of \$500;

2 (3) for a third violation of AS 18.20.400 - 18.20.499 within 12 months,
3 the commissioner shall reprimand the health care facility and assess a penalty of not
4 less than \$2,500 but not more than \$5,000;

5 (4) for each violation of AS 18.20.400 - 18.20.499 after a third
6 violation of AS 18.20.400 - 18.20.499 within 12 months, the commissioner shall
7 reprimand the health care facility and assess a penalty of not less than \$5,000 but not
8 more than \$25,000.

9 (d) As an employer, a health care facility violates an overtime provision of
10 AS 18.20.400 - 18.20.499 "knowingly" when the facility is either aware that its
11 conduct is of a nature prohibited by the overtime provision or aware that the
12 circumstances described in the overtime prohibition exist; however, when knowledge
13 of the existence of a particular fact is required to establish that the violation was
14 knowing, that knowledge exists when the facility is aware of a substantial probability
15 of its existence, unless the facility reasonably believes it does not exist.

16 **Sec. 18.20.440. Prohibition of retaliation.** A health care facility may not
17 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
18 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.499
19 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.499.

20 **Sec. 18.20.450. Enforcement of prohibition against retaliation.** The
21 commissioner shall investigate every complaint alleging a violation of AS 18.20.440,
22 and, within 90 days after the date of filing of the complaint, provide to the
23 complainant, the Department of Law, and the health care facility named in the
24 complaint a written determination as to whether the health care facility violated
25 AS 18.20.440. If the commissioner finds a violation of AS 18.20.440, the
26 commissioner shall request that the Department of Law represent the department and
27 the complainant and obtain from the health care facility all appropriate relief,
28 including rehiring or reinstatement of the complainant to the complainant's former
29 position with back pay.

30 **Sec. 18.20.460. Report requirements.** (a) A health care facility shall file with
31 the division of labor standards and safety, Department of Labor and Workforce

1 Development, a semiannual report on a form provided by the department. The report
2 for the six-month period ending June 30 must be filed before the following August 1,
3 and the report for the six-month period ending December 31 must be filed before the
4 following February 1. The report must include, for each nurse employed by the health
5 care facility or under contract with the health care facility, the number of overtime
6 hours worked and the number of hours the nurse was on call. A health care facility that
7 does not employ a nurse who worked overtime hours or who was on call during the
8 reporting period is not required to describe hours worked as overtime and on-call
9 hours for individual nurses but may instead complete the report by stating on the form
10 that there are no reportable hours.

11 (b) A primary care outpatient facility is not subject to the reporting
12 requirements of (a) of this section.

13 **Sec. 18.20.470. Provisions not applicable to nurses employed in federal or**
14 **tribal facilities.** The provisions of AS 18.20.400 - 18.20.499 do not apply to a nurse
15 employed in a health care facility that is operated by

16 (1) the federal government; or

17 (2) a tribal organization as defined in 25 U.S.C. 450b.

18 **Sec. 18.20.480. Notice to employees.** A health care facility shall post and
19 maintain, in places readily accessible to individuals in the service of the health care
20 facility, printed statements that describe employee rights and employer obligations
21 under AS 18.20.400 - 18.20.499 and regulations adopted under AS 18.20.430. The
22 commissioner shall supply the printed statements to a health care facility without cost
23 to the facility.

24 **Sec. 18.20.499. Definitions.** In AS 18.20.400 - 18.20.499,

25 (1) "commissioner" means the commissioner of labor and workforce
26 development;

27 (2) "health care facility" means a private, municipal, or state hospital;
28 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
29 facility; kidney disease treatment center, including freestanding hemodialysis units;
30 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
31 Alaska Veterans' Home administered by the Department of Health and Social Services

1 under AS 47.55; correctional facility owned or administered by the state; private,
2 municipal, or state facility employing one or more public health nurses; long-term care
3 facility; psychiatric hospital; residential psychiatric treatment center, as defined in
4 AS 18.07.111 or AS 47.32.900; secure residential psychiatric treatment center under
5 AS 47.32.990; juvenile detention facility; juvenile detention home, juvenile work
6 camp, or treatment facility as defined in AS 47.12.990;

7 (3) "nurse" means an individual licensed to practice registered nursing
8 or practical nursing under AS 08.68 who provides nursing services through direct
9 patient care or clinical services and includes a nurse manager when delivering in-
10 hospital patient care;

11 (4) "on-call" means a status in which a nurse must be ready to report to
12 the health care facility and may be called to work by the health care facility;

13 (5) "overtime" means the hours worked in excess of a predetermined
14 and regularly scheduled shift that is agreed to by a nurse and a health care facility;

15 (6) "rural community" means a village or city that has a population of
16 less than 10,000, as determined by the Department of Labor and Workforce
17 Development, and is in

18 (A) the unorganized borough; or

19 (B) an organized borough that has a population of less than
20 25,000, as determined by the Department of Labor and Workforce
21 Development.

22 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 APPLICABILITY. A health care facility that is required to file reports under
25 AS 18.20.460, enacted in sec. 2 of this Act, shall file its first report before February 1, 2010,
26 for the period July 1, 2009, through December 31, 2009.

27 * Sec. 4. AS 18.20.460, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
28 July 1, 2009.

29 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2010.



Alaska State Legislature

Representative Peggy Wilson
House District 2

MEMORANDUM

HB 50 Version M Changes:

1. **Concern:** Rural hospitals may face more difficulty than urban facilities in complying with the HB 50 requirement

Mitigation 1: Added new exemption, "Temporary nurse staffing emergency"

- 30 day duration.
- Report describing efforts to staff the facility required.
- Report must be filed with DOL
 - i. Limit to 2 reports in 6 months or 3 in 1 year or the reports must be sent to the Legislature as well. (pg 4, line 19-31, pg 5, line1-3)

Mitigation 2: Unforeseen weather condition added. (pg 3, line 11-18)

Mitigation 3: Rural community is defined. (pg 8 line15-21)

2. **Concern:** Nurses would leave surgical units or other units while procedures or surgeries are ongoing.

Mitigation 1: An exemption for a nurse who is participating in an on-going surgery or medical procedure has been added. (pg 3, line 2-3)

3. **Concern:** Specialized work schedules for weekends used at North Star Behavioral Health would be a problem

Mitigation: This specific practice has been exempted. (pg 4, line 1-15)

4. **Concern:** On call hours could require a nurse to work beyond the maximum 14 consecutive hour limit.

Mitigation: An exemption allowing nurses the ability to refuse mandatory on-call if they believe they are too tired to perform their duties safely. (pg 3, line 21-24)



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5. **Concern:** The 80 limitation for 14 days was not flexible.

Mitigation: that limitation has been deleted

6. **Concern:** There are potential legal problems with jurisdiction.

Mitigation: The federal and Native facilities have been exempted. (pg. 7, line 13-17)

7. **Concern:** Reporting Requirements for facilities that do not use mandatory overtime are too arduous.

Mitigation: Allow a facility to submit a statement that there are no hours to report. (pg 7, line 9-10)

Two other changes were made to the bill: Facilities will be required to post a sign describing these statutes. (pg 7, line 18-23) The one hour exemption to find a replacement nurse has been extended to be more flexible (pg 4, line 16-18)

26-LS0274-W
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19 (D) at a health care facility located in a rural community that
20 declares a temporary nurse staffing emergency under AS 18.20.410;

21 (4) a nurse fulfilling on-call time that is agreed on by the nurse and a
22 health care facility before it is scheduled unless fulfilling the on-call time would, in the
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11 than the pay and benefits the nurse would receive for working 20 regular hours
12 in the same position; and

13 (C) during the period described in (B) of this paragraph does
14 not work a 16-hour shift consecutive with another shift of eight hours or more
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21 and failing in that effort, a health care facility in a rural community determines it is not
22 able to meet the overtime limitations in AS 18.20.400 without putting the safety of its
23 patients at risk of serious harm, the health care facility may declare a temporary nurse
24 staffing emergency. A declaration of a temporary nurse staffing emergency under this
25 section

26 (1) must be made in a writing, signed by the administrator of the health
27 care facility or the administrator's designee, that describes the facility's reasonable
28 effort to avoid the temporary nurse staffing emergency; and

29 (2) may not exceed 30 days.

30 (b) Immediately after declaring a temporary nurse staffing emergency under
31 (a) of this section, a health care facility shall file with the division of labor standards

1 and safety, Department of Labor and Workforce Development, a report that includes a
2 copy of the signed writing required under (a) of this section. A report under this
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12 of the year the excessive declaration under this subsection occurs.

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15 patient or a nurse may make a complaint about staffing levels and patient safety that
16 relate to overtime work by nurses and to limitations on overtime work by nurses under
17 AS 18.20.400.

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19 shall administer AS 18.20.400 - 18.20.469 and adopt regulations for implementing and
20 enforcing AS 18.20.400 - 18.20.469.

21 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.469 must be filed
22 with the commissioner within 30 days after the date of the alleged violation. The
23 commissioner shall provide a copy of the complaint to the health care facility named
24 in the filing within three business days after receiving the complaint.

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13 **Sec. 18.20.465. Provisions not applicable to nurses employed in federal or**
14 **tribal facilities.** The provisions of AS 18.20.400 - 18.20.469 do not apply to a nurse
15 employed in a health care facility that is operated by

16 (1) the federal government; or

17 (2) a tribal organization as defined in 25 U.S.C. 450b.

18 **Sec. 18.20.467. Notice to employees.** A health care facility shall post and
19 maintain, in places readily accessible to individuals in the service of the health care
20 facility, printed statements that describe employee rights and employer obligations
21 under AS 18.20.400 - 18.20.469 and regulations adopted under AS 18.20.430. The
22 commissioner shall supply the printed statements to a health care facility without cost
23 to the facility.

24 **Sec. 18.20.469. Definitions.** In AS 18.20.400 - 18.20.469,

25 (1) "commissioner" means the commissioner of labor and workforce
26 development;

27 (2) "health care facility" means a private, municipal, state, or state
28 hospital; independent diagnostic testing facility; primary care outpatient facility;
29 skilled nursing facility; kidney disease treatment center, including freestanding
30 hemodialysis units; intermediate care facility; ambulatory surgical facility; Alaska
31 Pioneers' Home or Alaska Veterans' Home administered by the Department of Health

1 and Social Services under AS 47.55; correctional facility owned or administered by
2 the state; private, municipal, or state facility employing one or more public health
3 nurses; long-term care facility; psychiatric hospital; residential psychiatric treatment
4 center, as defined in AS 18.07.111 or AS 47.32.900; secure residential psychiatric
5 treatment center under AS 47.32.990; juvenile detention facility; juvenile detention
6 home, juvenile work camp, or treatment facility as defined in AS 47.12.990;

7 (3) "nurse" means an individual licensed to practice registered nursing
8 or practical nursing under AS 08.68 who provides nursing services through direct
9 patient care or clinical services and includes a nurse manager when delivering in-
10 hospital patient care;

11 (4) "on-call" means a status in which a nurse must be ready to report to
12 the health care facility and may be called to work by the health care facility;

13 (5) "overtime" means the hours worked in excess of a predetermined
14 and regularly scheduled shift that is agreed to by a nurse and a health care facility;

15 (6) "rural community" means a village or city that

16 (A) has a population of less than 10,000, as determined by the
17 Department of Labor and Workforce Development;

18 (B) is in the unorganized borough; or

19 (C) is in an organized borough that has a population of less
20 than 25,000, as determined by the Department of Labor and Workforce
21 Development.

22 * Sec. 3. The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 APPLICABILITY. A health care facility that is required to file reports under
25 AS 18.20.460, enacted in sec. 2 of this Act, shall file its first report before February 1, 2010,
26 for the period July 1, 2009, through December 31, 2009.

27 * Sec. 4. AS 18.20.460, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
28 July 1, 2009.

29 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2010.



Alaska State Legislature

Representative Peggy Wilson
House District 2

MEMORANDUM

Date: March 30, 2009

To: Representative Bob Herron and Representative Wes Keller, Co-Chairs Health,
and Social Services Committee

From: Representative Peggy Wilson *PW*

Re: HB 50 – Limit Overtime for Registered Nurses

I would like to request the House HSS Committee schedule another hearing on HB 50.

During the first hearing of this bill in the House Health and Social Services there was testimony that brought up several issues. The attached revision of the bill addresses those issues. This memo will outline the changes made to the bill and the issue it is designed to mitigate.

1. **Concern:** Rural hospitals may face more difficulty than urban facilities in complying with the requirement to not exceed the shift length maximum of 14 hours or to allow 10 hours of rest following such a shift. Witnesses in opposition testified that generally hospitals don't use mandatory overtime, but the concern was raised that in certain circumstances in remote rural facilities, mandatory overtime was occasionally necessary.

Mitigation 1: A new exemption has been added, called "Temporary nurse staffing emergency" for rural communities. Under this provision, facilities may declare a "temporary nurse staffing emergency" of up to 30 days after making all reasonable efforts to avoid this circumstance. These facilities shall file a report signed by the facility administrator with the Department of Labor & Workforce Development that describes the facilities' efforts to avoid the staffing emergency. The reports must also be filed with the Legislature if there are more than two such emergencies declared within 6 months or 3 emergencies within 1 year. (pg 4, Sec. 18.20.410)



Alaska State Legislature

Representative Peggy Wilson
House District 2

Mitigation 2: An exemption for "unforeseen weather condition" and a definition of that condition were added. (pg 3, line 12-19)

Mitigation 3: The temporary exemption described above is available to any village or city with a population of less than 10,000. This exemption also applies to communities in organized boroughs with a population of more than 25,000. (pg 7, line 30-31, pg 8 line 1-5)

2. **Concern:** Because of the 14 hour maximum for a shift there seemed to be a concern, from multiple witnesses testifying in opposition to the bill, that nurses would be forced to leave surgical units with ongoing surgeries or leaving neonatal units without the specially trained nurses in attendance. This was never the intent of the proponents of this bill.

Mitigation 1: An exemption for a nurse who is participating in an on-going surgery or medical procedure has been added. (pg 3, line 2-3)

Mitigation 2: The exemption for unforeseen emergency situation has been expanded to include "a life-threatening circumstance". (pg 3, line 7)

3. **Concern:** The committee heard testimony describing a situation where a modified Baylor program of staffing is used by North Star Behavioral Health. This staffing situation is used only at psychiatric hospitals and residential treatment centers that treat adolescents and children and only on the weekends.

Mitigation: This specific practice has been exempted. (pg 3, line 23-25)

4. **Concern:** During testimony by both those opposed and those in favor it was brought out that mandatory on-call was used more frequently as a staffing tool than mandatory overtime. This practice often requires nurses to work beyond the number of hours that are safe for both the patient and the nurse.

Mitigation: Language has been added to the general on-call exemption allowing nurses the ability to refuse mandatory on-call if they believe they are too tired to perform their duties safely. (pg 3, line 23-25)



Alaska State Legislature

Representative Peggy Wilson
House District 2

I have also made other changes described below.

Facilities will be required to post signs that describe the statutes created by this bill. The signs will be distributed by the Department of Labor and must be displayed in a conspicuous work area in all facilities. (pg 7, line 4-9)

The 1 hour exemption while the health care facility is obtaining another nurse to work in place of the nurse in overtime status has been extended to 2 hours so long as the nurse has not exceeded the 14 hour limit. In some cases nurses live some distance from the facility and I believe this extension of the provision gives the facility more flexibility. (pg 4, line 11)

Thank you for your consideration of my request.

26-LS0274 C

Wayne

3 28 09

CS FOR HOUSE BILL NO. 50()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SIXTH LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVES WILSON, GARA, TUCK, PETERSEN, LYNN, SEATON, GATTO, CISSNA, MUÑOZ, AND GARDNER, Ramras, Foster, Kerttula****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to limitations on mandatory overtime for registered nurses and**
2 **licensed practical nurses in health care facilities; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** The legislature finds that

7 (1) it is essential that registered nurses and licensed practical nurses providing
8 direct patient care be available to meet the needs of patients;

9 (2) quality patient care is jeopardized by registered nurses and licensed
10 practical nurses who work unnecessarily long hours in health care facilities;

11 (3) registered nurses and licensed practical nurses are leaving their profession
12 because of workplace stresses, long work hours, and depreciation of their essential role in the
13 delivery of quality and direct patient care;

14 (4) it is necessary to safeguard the efficiency, health, and general well-being

1 of registered nurses and licensed practical nurses, and the health and general well-being of the
2 persons receiving care from registered nurses and licensed practical nurses in health care
3 facilities;

4 (5) it is necessary that registered nurses and licensed practical nurses be made
5 aware of their rights, duties, and remedies concerning hours worked and patient safety; and

6 (6) health care facilities should provide adequate and safe nurse staffing
7 without the need for or use of mandatory overtime.

8 * **Sec. 2.** AS 18.20 is amended by adding new sections to read:

9 **Article 4. Overtime Limitations for Nurses.**

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in
11 (c) of this section, a nurse in a health care facility may not be required or coerced,
12 directly or indirectly,

13 (1) to work beyond a predetermined and regularly scheduled shift that
14 is agreed to by the nurse and the health care facility;

15 (2) to work beyond 80 hours in a 14-day period; or

16 (3) to accept an assignment of overtime if, in the judgment of the
17 nurse, the overtime would jeopardize patient or employee safety.

18 (b) Except as provided by (c) of this section, after working a predetermined
19 and regularly scheduled shift that is agreed to by the nurse and the health care facility
20 as authorized by (a)(1) of this section, a nurse in a health care facility shall be allowed
21 not less than 10 consecutive hours of off-duty time immediately following the end of
22 that work.

23 (c) Subsection (a) of this section does not apply to

24 (1) a nurse who is employed by a health care facility providing
25 services for a school, school district, or other educational institution, when the nurse is
26 on duty for more than 14 consecutive hours during an occasional special event, such as
27 a field trip, that is sponsored by the employer;

28 (2) a nurse voluntarily working overtime on an aircraft in use for
29 medical transport, so long as the shift worked is allowable under regulations adopted
30 by the Board of Nursing based on accreditation standards adopted by the Commission
31 on Accreditation of Medical Transport Systems;

1 (3) a nurse on duty in overtime status

2 (A) who is participating in the performance of a medical
3 procedure or surgery that has begun but has not been completed;

4 (B) because of an unforeseen emergency situation that could
5 jeopardize patient safety; in this subparagraph, "unforeseen emergency
6 situation" means an unusual, unpredictable, or unforeseen situation caused by
7 an act of terrorism, disease outbreak, life-threatening circumstance, natural
8 disaster, major disaster as defined in 42 U.S.C. 5122, or disaster emergency
9 under AS 26.23.020 or 26.23.140, but does not include a situation in which a
10 health care facility has reasonable knowledge of increased patient volume or
11 inadequate staffing because of some other cause, if that cause is foreseeable;

12 (C) because the health care facility has a scheduling problem
13 caused by unforeseen weather conditions that prevent a second nurse from
14 arriving at the facility to relieve the nurse on duty; in this subparagraph,
15 "unforeseen weather conditions" means unusual, unpredictable, or unforeseen
16 weather so extreme as to impair travel to the health care facility, but does not
17 include a situation in which the health care facility has knowledge of the
18 weather conditions far enough in advance to act so that a scheduling problem
19 under this subparagraph can reasonably be avoided; or

20 (D) at a health care facility located in a rural community that
21 declares a temporary nurse staffing emergency under AS 18.20.410;

22 (4) a nurse fulfilling on-call time that is agreed on by the nurse and a
23 health care facility before it is scheduled unless fulfilling the on-call time would, in the
24 nurse's judgment, create an unacceptable risk to the physical safety of the nurse, a
25 patient, or an employee of the facility;

26 (5) a nurse voluntarily working overtime so long as the work is
27 consistent with professional standards and safe patient care and does not exceed 14
28 consecutive hours;

29 (6) a nurse voluntarily working beyond 80 hours in a 14-day period so
30 long as the nurse does not work more than 14 consecutive hours without a 10-hour
31 break and the work is consistent with professional standards and safe patient care;

1 (7) a nurse at a psychiatric treatment hospital that treats only
2 adolescents and children or a residential psychiatric treatment center under
3 AS 18.07.111 or AS 47.12.990, or a secure residential psychiatric treatment center
4 under AS 47.32.900 who voluntarily agrees to work a 16-hour shift on a weekend and
5 receives pay and benefits for that work that are equal to or greater than the pay and
6 benefits the nurse would receive for working 20 regular hours in the same position; a
7 nurse under this paragraph may not work a 16-hour shift consecutive with another
8 shift of eight hours or more without an intervening break of at least eight hours; in this
9 paragraph, "weekend" means the period between 5:00 p.m. on a Friday and 8:00 a.m.
10 on the Monday that immediately follows;

11 (8) the first two hours on overtime status when the health care facility
12 is obtaining another nurse to work in place of the nurse in overtime status, so long as
13 the nurse in overtime status is not on duty for more than 14 consecutive hours.

14 **Sec. 18.20.410. Temporary nurse staffing emergency.** (a) If, after making a
15 substantial and reasonable effort to increase the number of available nurses on staff
16 and failing in that effort, a health care facility in a rural community determines it is not
17 able to meet the overtime limitations in AS 18.20.400 without putting the safety of its
18 patients at risk of serious harm, the health care facility may declare a temporary nurse
19 staffing emergency. A declaration of a temporary nurse staffing emergency under this
20 section

21 (1) must be made in a writing, signed by the administrator of the health
22 care facility or the administrator's designee, that describes the facility's reasonable
23 effort to avoid the temporary nurse staffing emergency; and

24 (2) may not exceed 30 days.

25 (b) Immediately after declaring a temporary nurse staffing emergency under
26 (a) of this section, a health care facility shall file with the division of labor standards
27 and safety, Department of Labor and Workforce Development, a report that includes a
28 copy of the signed writing required under (a) of this section. A report under this
29 subsection is a public document.

30 (c) In addition to the requirements of (a) and (b) of this section, a health care
31 facility shall notify the legislature immediately by delivery of a written report to the

1 Alaska Legislative Council each time the facility declares a temporary nurse staffing
2 emergency under AS 18.20.400(c) that exceeds two occurrences in a six-month period
3 that begins on January 1 or July 1 of the year in which the declaration occurs, or three
4 occurrences in the one-year period that begins on January 1 of that year. A report
5 under this subsection must include a copy of each report that is required of the health
6 care facility under (b) of this section for the one-year period that begins on January 1
7 of the year the excessive declaration under this subsection occurs.

8 **Sec. 18.20.420. Health care facility complaint process for overtime work**
9 **by nurses.** A health care facility shall provide for an anonymous process by which a
10 patient or a nurse may make a complaint about staffing levels and patient safety that
11 relate to overtime work by nurses and to limitations on overtime work by nurses under
12 AS 18.20.400.

13 **Sec. 18.20.430. Enforcement, offenses, and penalties.** (a) The commissioner
14 shall administer AS 18.20.400 - 18.20.469 and adopt regulations for implementing and
15 enforcing AS 18.20.400 - 18.20.469.

16 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.469 must be filed
17 with the commissioner within 30 days after the date of the alleged violation. The
18 commissioner shall provide a copy of the complaint to the health care facility named
19 in the filing within three business days after receiving the complaint.

20 (c) If the commissioner finds that a health care facility has knowingly violated
21 an overtime provision of AS 18.20.400 - 18.20.469, the following civil penalties shall
22 apply:

23 (1) for a first violation of AS 18.20.400 - 18.20.469, the commissioner
24 shall reprimand the health care facility;

25 (2) for a second violation of AS 18.20.400 - 18.20.469 within 12
26 months, the commissioner shall reprimand the health care facility and assess a penalty
27 of \$500;

28 (3) for a third violation of AS 18.20.400 - 18.20.469 within 12 months,
29 the commissioner shall reprimand the health care facility and assess a penalty of not
30 less than \$2,500 but not more than \$5,000;

31 (4) for each violation of AS 18.20.400 - 18.20.469 after a third

1 violation of AS 18.20.400 - 18.20.469 within 12 months, the commissioner shall
2 reprimand the health care facility and assess a penalty of not less than \$5,000 but not
3 more than \$25,000.

4 (d) As an employer, a health care facility violates an overtime provision of
5 AS 18.20.400 - 18.20.469 "knowingly" when the facility is either aware that its
6 conduct is of a nature prohibited by the overtime provision or aware that the
7 circumstances described in the overtime prohibition exist; however, when knowledge
8 of the existence of a particular fact is required to establish that the violation was
9 knowing, that knowledge exists when the facility is aware of a substantial probability
10 of its existence, unless the facility reasonably believes it does not exist.

11 **Sec. 18.20.440. Prohibition of retaliation.** A health care facility may not
12 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
13 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.469
14 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.469.

15 **Sec. 18.20.450. Enforcement of prohibition against retaliation.** The
16 commissioner shall investigate every complaint alleging a violation of AS 18.20.440,
17 and, within 90 days after the date of filing of the complaint, provide to the
18 complainant, the Department of Law, and the health care facility named in the
19 complaint a written determination as to whether the health care facility violated
20 AS 18.20.440. If the commissioner finds a violation of AS 18.20.440, the
21 commissioner shall request that the Department of Law represent the department and
22 the complainant and obtain from the health care facility all appropriate relief,
23 including rehiring or reinstatement of the complainant to the complainant's former
24 position with back pay.

25 **Sec. 18.20.460. Report requirements.** A health care facility shall file with the
26 division of labor standards and safety, Department of Labor and Workforce
27 Development, a semiannual report. The report for the six-month period ending June 30
28 must be filed before the following August 1, and the report for the six-month period
29 ending December 31 must be filed before the following February 1. The report must
30 include, for each nurse employed by the health care facility or under contract with the
31 health care facility, the number of overtime hours worked, the number of overtime

1 hours that were mandatory, the number of overtime hours that were voluntary, the
2 number of on-call hours, the number of on-call hours that were mandatory, and the
3 number of on-call hours that were voluntary.

4 **Sec. 18.20.465. Notice to employees.** A health care facility shall post and
5 maintain, in places readily accessible to individuals in the service of the health care
6 facility, printed statements that describe employee rights and employer obligations
7 under AS 18.20.400 - 18.20.469 and regulations adopted under AS 18.20.430. The
8 commissioner shall supply the printed statements to a health care facility without cost
9 to the facility.

10 **Sec. 18.20.469. Definitions.** In AS 18.20.400 - 18.20.469,

11 (1) "commissioner" means the commissioner of labor and workforce
12 development;

13 (2) "health care facility" means a private, municipal, state, or federal
14 hospital; psychiatric hospital; independent diagnostic testing facility; skilled nursing
15 facility; kidney disease treatment center, including freestanding hemodialysis units;
16 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
17 Alaska Veterans' Home administered by the Department of Health and Social Services
18 under AS 47.55; correctional facility owned or administered by the state; private,
19 municipal, state, or federal facility employing one or more public health nurses; long-
20 term care facility; juvenile detention facility; juvenile detention home, juvenile work
21 camp, or treatment facility, as defined in AS 47.12.990;

22 (3) "nurse" means an individual licensed to practice registered nursing
23 or practical nursing under AS 08.68 who provides nursing services through direct
24 patient care or clinical services and includes a nurse manager when delivering in-
25 hospital patient care;

26 (4) "on-call" means a status in which a nurse must be ready to report to
27 the health care facility and may be called to work by the health care facility;

28 (5) "overtime" means the hours worked in excess of a predetermined
29 and regularly scheduled shift that is agreed to by a nurse and a health care facility;

30 (6) "rural community" means a village or city that

(A) has a population of less than 10,000, as determined by the

1 Department of Labor and Workforce Development;

2 (B) is in the unorganized borough; or

3 (C) is in an organized borough that has a population of less
4 than 25,000, as determined by the Department of Labor and Workforce
5 Development.

6 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **APPLICABILITY.** A health care facility that is required to file reports under
9 AS 18.20.460, enacted in sec. 2 of this Act, shall file its first report before February 1, 2010,
10 for the period July 1, 2009, through December 31, 2009.

11 * **Sec. 4.** AS 18.20.460, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
12 July 1, 2009.

13 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2010.



Alaska State Legislature

Representative Peggy Wilson
House District 2

SPONSOR STATEMENT HB 50

"An Act relating to limitations on overtime for registered nurses and licensed practical nurses in health care facilities and providing for an effective date."

Nurses are working excessive amounts of hours without adequate rest. This creates an unsafe work environment for patients and nurses. Mandatory overtime is one of the main reasons nurses leave nursing. Recent studies indicate that one in five nurses is considering leaving the profession. When polled on their reasons for leaving, mandatory overtime is always listed in the top ten. The purpose of HB 50 is to promote better patient and nurse safety and to create an environment that will keep nurses at the bedside.

HB 50 would prohibit mandatory overtime. Mandatory overtime hours are those hours above an agreed upon, predetermined, regularly scheduled shift, which the employer makes compulsory (as opposed to voluntary). The threat of reprisals includes but is not limited to discharge, discipline, demotion or assignment to unattractive tasks or work shifts or in some cases licensure removal, retaliatory reporting, and charges of "patient abandonment".

The bill does not ban overtime. The bill allows nurses to work up to 14 consecutive hours, but then requires a rest period of at least 10 hours. Another provision provides a nurse cannot be forced to work more than 80 hours in a 14-day period. Nurses can voluntarily agree to exceed the 80-hour limit, so long as they don't work more than 14 consecutive hours without the 10-hour rest period.

HB 50 allows for a number of exceptions to these requirements, including school nurses on field trips, nurses working on medivac flights, and if needed, for an unforeseen emergency that could jeopardize patient safety such as natural disasters or disease outbreaks.

There are 15 other states that have adopted similar requirements, including Washington, Oregon and California. Most of these versions restrict nurses to only 12 consecutive hours, with a mandated rest period of 12 hours. HB 50 extended those requirements to a 14-hour limit with a 10-hour rest period to provide additional flexibility to our hospitals, particularly those operating in smaller communities.

HB 50 addresses these problems in a reasonable and balanced manner, while making a work environment safer. It will also help to retain nurses instead of giving them reason leave the state or retire early.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2

Sectional Analysis

House Bill 50

“An act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date.”

Section 1. Describes the intent and reasons for the Act.

Section 2. Defines the Act:

- the limitations on overtime for nurses,
- the process for complaints,
- the enforcement, offenses and penalties as they apply to mandatory overtime for nurses,
- prohibition of retaliation, and enforcement of the retaliation,
- the reporting requirements.
- the definitions of terms .

Section 3. Sets the reporting periods.

Section 4. Sets the effective date for sections 2 and 3 at July 1, 2009

Section 5. Sets effective date at Jan. 1, 2010.

HOUSE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES WILSON, GARA, TUCK, PETERSEN, LYNN, SEATON, GATTO, CISSNA,
MUÑOZ, AND GARDNER, Ramras, Foster, Kerttula**

Introduced: 1/20/09

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to limitations on mandatory overtime for registered nurses and**
2 **licensed practical nurses in health care facilities; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** The legislature finds that

7 (1) it is essential that registered nurses and licensed practical nurses providing
8 direct patient care be available to meet the needs of patients;

9 (2) quality patient care is jeopardized by registered nurses and licensed
10 practical nurses who work unnecessarily long hours in health care facilities;

11 (3) registered nurses and licensed practical nurses are leaving their profession
12 because of workplace stresses, long work hours, and depreciation of their essential role in the
13 delivery of quality and direct patient care;

14 (4) it is necessary to safeguard the efficiency, health, and general well-being

1 of registered nurses and licensed practical nurses, and the health and general well-being of the
 2 persons receiving care from registered nurses and licensed practical nurses in health care
 3 facilities;

4 (5) it is necessary that registered nurses and licensed practical nurses be made
 5 aware of their rights, duties, and remedies concerning hours worked and patient safety; and

6 (6) health care facilities should provide adequate and safe nurse staffing
 7 without the need for or use of mandatory overtime.

8 * **Sec. 2.** AS 18.20 is amended by adding new sections to read:

9 **Article 4. Overtime Limitations for Nurses.**

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in

11 (c) of this section, a nurse in a health care facility may not be required or coerced,
 12 directly or indirectly,

13 (1) to work beyond a predetermined and regularly scheduled shift that
 14 is agreed to by the nurse and the health care facility;

15 (2) to work beyond 80 hours in a 14-day period; or

16 (3) to accept an assignment of overtime if, in the judgment of the
 17 nurse, the overtime would jeopardize patient or employee safety.

18 (b) Except as provided by (c) of this section, after working a predetermined
 19 and regularly scheduled shift that is agreed to by the nurse and the health care facility
 20 as authorized by (a)(1) of this section, a nurse in a health care facility shall be allowed
 21 not less than 10 consecutive hours of off-duty time immediately following the end of
 22 that work.

23 (c) Subsection (a) of this section does not apply to

24 (1) a nurse who is employed by a health care facility providing
 25 services for a school, school district, or other educational institution, when the nurse is
 26 on duty for more than 14 consecutive hours during an occasional special event, such as
 27 a field trip, that is sponsored by the employer;

28 (2) a nurse voluntarily working overtime on an aircraft in use for
 29 medical transport, so long as the shift worked is allowable under regulations adopted
 30 by the Board of Nursing based on accreditation standards adopted by the Commission
 31 on Accreditation of Medical Transport Systems;

(3) a nurse on duty in overtime status because of an unforeseen emergency situation that could jeopardize patient safety; in this paragraph, "unforeseen emergency situation" means an unusual, unpredictable, or unforeseen situation caused by an act of terrorism, disease outbreak, natural disaster, major disaster as defined in 42 U.S.C. 5122, or disaster emergency under AS 26.23.020 or 26.23.140, but does not include a situation in which a health care facility has reasonable knowledge of increased patient volume or inadequate staffing because of some other cause, if that cause is foreseeable;

(4) a nurse fulfilling on-call time that is agreed on by the nurse and a health care facility before it is scheduled;

(5) a nurse voluntarily working overtime so long as the work is consistent with professional standards and safe patient care and does not exceed 14 consecutive hours;

(6) a nurse voluntarily working beyond 80 hours in a 14-day period so long as the nurse does not work more than 14 consecutive hours without a 10-hour break and the work is consistent with professional standards and safe patient care;

(7) the first hour on overtime status when the health care facility is obtaining another nurse to work in place of the nurse in overtime status.

Sec. 18.20.410. Health care facility complaint process for overtime work by nurses. A health care facility shall provide for an anonymous process by which a patient or a nurse may make a complaint about staffing levels and patient safety that relate to overtime work by nurses and to limitations on overtime work by nurses under AS 18.20.400.

Sec. 18.20.420. Enforcement, offenses, and penalties. (a) The commissioner shall administer AS 18.20.400 - 18.20.449 and adopt regulations for implementing and enforcing AS 18.20.400 - 18.20.449.

(b) A complaint alleging a violation of AS 18.20.400 - 18.20.449 must be filed with the commissioner within 30 days after the date of the alleged violation. The commissioner shall provide a copy of the complaint to the health care facility named in the filing within three business days after receiving the complaint.

(c) If the commissioner finds that a health care facility has knowingly violated

1 an overtime provision of AS 18.20.400 - 18.20.449, the following civil penalties shall
2 apply:

3 (1) for a first violation of AS 18.20.400 - 18.20.449, the commissioner
4 shall reprimand the health care facility;

5 (2) for a second violation of AS 18.20.400 - 18.20.449 within 12
6 months, the commissioner shall reprimand the health care facility and assess a penalty
7 of \$500;

8 (3) for a third violation of AS 18.20.400 - 18.20.449 within 12 months,
9 the commissioner shall reprimand the health care facility and assess a penalty of not
10 less than \$2,500 but not more than \$5,000;

11 (4) for each violation of AS 18.20.400 - 18.20.449 after a third
12 violation of AS 18.20.400 - 18.20.449 within 12 months, the commissioner shall
13 reprimand the health care facility and assess a penalty of not less than \$5,000 but not
14 more than \$25,000.

15 (d) As an employer, a health care facility violates an overtime provision of
16 AS 18.20.400 - 18.20.449 "knowingly" when the facility is either aware that its
17 conduct is of a nature prohibited by the overtime provision or aware that the
18 circumstances described in the overtime prohibition exist; however, when knowledge
19 of the existence of a particular fact is required to establish that the violation was
20 knowing, that knowledge exists when the facility is aware of a substantial probability
21 of its existence, unless the facility reasonably believes it does not exist.

22 **Sec. 18.20.430. Prohibition of retaliation.** A health care facility may not
23 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
24 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.449
25 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.449.

26 **Sec. 18.20.440. Enforcement of prohibition against retaliation.** The
27 commissioner shall investigate every complaint alleging a violation of AS 18.20.430,
28 and, within 90 days after the date of filing of the complaint, provide to the
29 complainant, the Department of Law, and the health care facility named in the
30 complaint a written determination as to whether the health care facility violated
31 AS 18.20.430. If the commissioner finds a violation of AS 18.20.430, the

1 commissioner shall request that the Department of Law represent the department and
 2 the complainant and obtain from the health care facility all appropriate relief,
 3 including rehiring or reinstatement of the complainant to the complainant's former
 4 position with back pay.

5 **Sec. 18.20.445. Report requirements.** A health care facility shall file with the
 6 division of labor standards and safety, Department of Labor and Workforce
 7 Development, a semiannual report. The report for the six-month period ending June 30
 8 must be filed before the following August 1, and the report for the six-month period
 9 ending December 31 must be filed before the following February 1. The report must
 10 include, for each nurse employed by the health care facility or under contract with the
 11 health care facility, the number of overtime hours worked, the number of overtime
 12 hours that were mandatory, the number of overtime hours that were voluntary, the
 13 number of on-call hours, the number of on-call hours that were mandatory, and the
 14 number of on-call hours that were voluntary.

15 **Sec. 18.20.449. Definitions.** In AS 18.20.400 - 18.20.449,

16 (1) "commissioner" means the commissioner of labor and workforce
 17 development;

18 (2) "health care facility" means a private, municipal, state, or federal
 19 hospital; psychiatric hospital; independent diagnostic testing facility; residential
 20 psychiatric treatment center, as defined in AS 18.07.111; skilled nursing facility;
 21 kidney disease treatment center, including freestanding hemodialysis units;
 22 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
 23 Alaska Veterans' Home administered by the Department of Health and Social Services
 24 under AS 47.55; correctional facility owned or administered by the state; juvenile
 25 detention facility, juvenile detention home, juvenile work camp, or treatment facility,
 26 as defined in AS 47.12.990; private, municipal, state, or federal facility employing one
 27 or more public health nurses; long-term care facility; or primary care outpatient
 28 facility;

29 (3) "nurse" means an individual licensed to practice registered nursing
 30 or practical nursing under AS 08.68 who provides nursing services through direct
 31 patient care or clinical services and includes a nurse manager when delivering in-

1 hospital patient care;

2 (4) "on-call" means a status in which a nurse must be ready to report to
3 the health care facility and may be called to work by the health care facility;

4 (5) "overtime" means the hours worked in excess of a predetermined
5 and regularly scheduled shift that is agreed to by a nurse and a health care facility.

6 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **APPLICABILITY.** The first report required to be filed under AS 18.20.445, enacted in
9 sec. 2 of this Act, shall be filed before February 1, 2010, for the period July 1, 2009, through
10 December 31, 2009.

11 * **Sec. 4.** AS 18.20.445, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
12 July 1, 2009.

13 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2010.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 50
() Publish Date: _____

Identifier (file name): HB050-DOLWD-WH-03-06-09 Dept. Affected: Labor and Workforce Development
Title: Limit Overtime for Registered Nurses RDU: Labor Standard & Safety
Sponsor: Representatives Wilson, Gara, Tuck, Petersen, Lynn, et al Component: Wage and Hour
Requester: House Health and Social Services Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
Personal Services	73.6		73.6	73.6	73.6	73.6	73.6
Travel	3.0		3.0	3.0	3.0	3.0	3.0
Contractual	18.9		18.9	18.9	18.9	18.9	18.9
Supplies	3.8		0.5	0.5	1.8	0.5	0.5
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	99.3	0.0	96.0	96.0	97.3	96.0	96.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	99.3		96.0	96.0	97.3	96.0	96.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
1157 Worker Safety Account							
TOTAL	99.3	0.0	96.0	96.0	97.3	96.0	96.0

Estimate of any current year (FY2009) cost: None

POSITIONS

Full-time	1.0		1	1	1	1	1
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The bill requires the Department of Labor and Workforce Development to investigate and take enforcement action to resolve complaints of unlawful mandatory overtime use and alleged retaliation. Due to the significant number of registered nurses and licensed practical nurses currently licensed in Alaska (approximately 10,000 RN's and 1,000 LPN's), the department anticipates the workload will require at least one full-time Wage and Hour Investigator I position funded with General Funds. Costs include \$73.6 for salary and benefits, \$3.0 for investigation travel, \$18.9 for contractual which includes normal per position costs such as office space, phone, data processing and administrative support and \$5.0 for Department of Law advice and representation, \$0.5 for office supplies and an additional \$3.3 for office furniture and equipment in the first year and an additional \$1.3 for computer equipment replacement in the fourth year.

Prepared by: Grey Mitchell, Director
Division: Labor Standard & Safety
Approved by: Click Bishop, Commissioner
Agency: Department of Labor and Workforce Development

Phone: 465-4855
Date/Time: 3/6/09 1:06 PM
Date: 3/6/09

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB050
() Publish Date: _____

Identifier (file name): HB050-DHSS-PH-03-09-09 Dept. Affected: Health & Social Services
Title: Limit Overtime for Registered Nurses RDU: Alaska Pioneer Homes
Sponsor: Wilson Component: Pioneers Homes
Requester: House HSS Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES (
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 50 establishes limitations on overtime for Registered Nurses (RNs) in health care facilities, provides penalties for violations, and requires reporting of any overtime, with the overtime designated as voluntary or mandatory by the RN. The intent of HB 50 is to eliminate mandatory overtime for RNs unless the overtime is due to a grave and unforeseen event. Under the bill, use of mandatory overtime in excess of the bill's limitations will result in a report to the Department of Labor.

The division has determined that passage of this bill will have a zero fiscal impact. Situations requiring overtime are adequately addressed by utilizing on-call RNs and requesting voluntary overtime.

Prepared by: Dave Cote, Director Phone 465-5737
Division: Alaska Pioneer Homes Date/Time 3/9/09 8:00 AM
Approved by: Alison Elgee, Assistant Commissioner Date 3/9/2009
DHSS Finance & Management Services

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB050
 () Publish Date: _____

Identifier (file name): HB050-DHSS-N-03-09-09 Dept. Affected: Health & Social Services
 Title Limit Overtime for Registered Nurses RDU Public Health
 Component Nursing
 Sponsor Wilson
 Requester House HSS Component Number _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES (
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This bill sets limitations for nurses working overtime hours beyond the scope of their regular duties. While the language in the bill makes it applicable to public health nurses, it would have a very limited effect on the Division of Public Health Section of Public Health Nursing. Most Public Health Nurses, as salaried employees, are not overtime eligible.

The mandated semi-annual report to the Department of Labor and Workforce Development would typically require no effort because public health nurses rarely work "in excess of a predetermined and regularly scheduled shift that is agreed upon by the nurse and a health care facility." Normal itinerant schedules, even though they often involve more than a 7.5-hour day, are always predetermined and agreed upon. In addition, the bill exempts reporting requirements for unforeseen emergencies requiring extra work. There is no projected fiscal impact on the Section of Public Health Nursing.

Prepared by: Jay Butler, Chief Medical Officer Phone 269-8126
 Division Public Health Date/Time 3/9/09 8:00 AM
 Approved by: Alison Elgee, Assistant Commissioner Date 3/9/2009
DHSS Finance & Management Services