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3/2/23

**CS FOR SENATE BILL NO. 8(HSS)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATOR WILSON

**A BILL**

**FOR AN ACT ENTITLED**

"An Act repealing the certificate of need program for health care facilities; making conforming amendments; and providing for an effective date."

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

\* **Section 1.** AS 12.25.030(e) is amended to read:

(e) In this section, "health care facility" has the meaning given in AS 12.55.155(c)(36) [AS 18.07.111].

\* **Sec. 2.** AS 12.55.155(c)(36)(A) is repealed and reenacted to read:

(A) "health care facility" means a private, municipal, state, or federal hospital, psychiatric hospital, independent diagnostic testing facility, residential psychiatric treatment center, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (including freestanding hemodialysis units), intermediate care facility, and ambulatory surgical facility; the term excludes

(i) the Alaska Pioneers' Home and the Alaska Veterans'

Home administered by the Department of Family and Community Services under AS 47.55; and

(ii) the offices of private physicians or dentists whether in individual or group practice;

\* **Sec. 3.** AS 12.55.155(c)(36) is amended by adding a new subparagraph to read:

(C) "residential psychiatric treatment center" has the meaning given in AS 18.20.400(d).

\* **Sec. 4.** AS 18.20.400(c) is amended to read:

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

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

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

(3) a nurse on duty in overtime status

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

(B) because of an unforeseen emergency situation that could jeopardize patient safety; in this subparagraph, "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;

(C) because the health care facility has a scheduling problem caused by unforeseen weather conditions that prevent a second nurse from arriving at the facility to relieve the nurse on duty; in this subparagraph,

"unforeseen weather conditions" means unusual, unpredictable, or unforeseen weather so extreme as to impair travel to the health care facility, but does not include a situation in which the health care facility has knowledge of the weather conditions far enough in advance to act so that a scheduling problem under this subparagraph can reasonably be avoided; or

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

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

(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) a nurse who

(A) is employed

(i) at a psychiatric treatment hospital that treats only children or at a residential psychiatric treatment center [, AS DEFINED UNDER AS 18.07.111,] that treats only children; in this sub-subparagraph, "children" means persons under 19 years of age who are receiving psychiatric treatment from a hospital or center or who are residing in a center and who were under 18 years of age on the date that the treatment or period of residence commenced;

(ii) at a residential psychiatric treatment center as defined in [UNDER] AS 47.32.900; or

(iii) at a secure residential psychiatric treatment center as defined in [UNDER] AS 47.12.990;

(B) voluntarily agrees to work a 16-hour shift for the period

between 5:00 p.m. on a Friday and 8:00 a.m. on the Monday that immediately follows and receives pay and benefits for that work that are equal to or greater than the pay and benefits the nurse would receive for working 20 regular hours in the same position; and

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

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

\* **Sec. 5.** AS 18.20.400 is amended by adding a new subsection to read:

(d) In (c)(7)(A)(i) of this section, "residential psychiatric treatment center" means a secure or semisecure psychiatric facility or inpatient program in a psychiatric facility that is licensed by the Department of Health and that provides therapeutically appropriate and medically necessary diagnostic, evaluation, and treatment services

(1) 24 hours a day for children with severe emotional or behavioral disorders;

(2) under the direction of a physician; and

(3) under a professionally developed and supervised individual plan of care designed to achieve the recipient's discharge from inpatient status at the earliest possible time that is intensively and collaboratively delivered by an interdisciplinary team involving medical, mental health, educational, and social service components.

\* **Sec. 6.** AS 18.20.499(2) is amended to read:

(2) "health care facility" means a private, municipal, or state hospital; independent diagnostic testing facility; primary care outpatient facility; skilled nursing facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by the Department of Family and Community Services under AS 47.55; correctional facility owned or administered by the state; private, municipal, or state facility employing one or more public health nurses; long-term care facility; psychiatric hospital; residential psychiatric treatment center, as

defined in AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; secure residential psychiatric treatment center as defined in [UNDER] AS 47.12.990; juvenile detention facility or juvenile treatment facility, as those terms are defined in AS 47.12.990; or treatment institution as that term is defined in AS 47.14.990;

\* **Sec. 7.** AS 18.26.220 is amended to read:

**Sec. 18.26.220. Facility compliance with health and safety laws and licensing requirements.** A medical facility constructed, acquired, improved, financed, or otherwise under the provisions of this chapter and all actions of the authority are subject to [AS 18.07,] AS 47.32 [,] and any other present or future state licensing requirements for the facilities or services provided under this chapter. [A MEDICAL FACILITY ISSUED A CERTIFICATE OF NEED UNDER SEC. 4, CH. 275, SLA 1976, BY VIRTUE OF BEING IN EXISTENCE OR UNDER CONSTRUCTION BEFORE JULY 1, 1976, MUST FULLY MEET THE REQUIREMENTS OF AS 18.07 IN ORDER TO BE ELIGIBLE FOR FUNDING UNDER THIS CHAPTER.]

\* **Sec. 8.** AS 18.35.399(9) is amended to read:

(9) "health care facility" means an office or institution providing care or treatment for physical, mental, emotional, or other medical, dental, physiological, or psychological diseases or conditions; private, municipal, or state hospital; independent diagnostic testing facility; primary care outpatient facility; skilled nursing facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by the department under AS 47.55; long-term care facility; psychiatric hospital; residential psychiatric treatment center, as defined in AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; and other facilities, places of employment, or offices operated for use by doctors, nurses, surgeons, chiropractors, physical therapists, physicians, psychiatrists, or dentists or other professional health care providers to provide health care;

\* **Sec. 9.** AS 18.07.021, 18.07.031, 18.07.035, 18.07.041, 18.07.043, 18.07.045, 18.07.051, 18.07.061, 18.07.071, 18.07.081, 18.07.091, 18.07.101, 18.07.111; AS 21.86.030(c)(1); AS 44.64.030(a)(18); and AS 47.80.140(b) are repealed.

1     \* **Sec. 10.** Section 4, ch. 275, SLA 1976, is repealed.

2     \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4           CERTIFICATES OF NEED; APPLICABILITY. The Department of Health may not  
5 take action on or after the effective date of secs. 1 - 11 of this Act to revoke, enforce, or  
6 modify a certificate of need issued to a health care facility before the effective date of secs. 1 -  
7 11 of this Act.

8     \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10           TRANSITION: REGULATIONS. The Department of Health shall adopt regulations  
11 necessary to implement the changes made by this Act by July 1, 2025. The regulations take  
12 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of  
13 secs. 1 - 11 of this Act.

14     \* **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

15     \* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect July 1, 2028.