

CS FOR HOUSE BILL NO. 271(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/3/06

Referred: Finance

Sponsor(s): REPRESENTATIVES WILSON, Elkins, Lynn, Stoltze, Gardner, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to limitations on overtime for registered nurses and licensed practical**
2 **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 is amended by adding a new chapter to read:

9 **Chapter 09. Overtime Limitations for Nurses.**

10 **Sec. 18.09.010. Limitations on nursing overtime.** (a) Except as provided in

11 (b) of this section, a nurse in a health care facility may not be required or coerced,
 12 either directly or indirectly, to accept an assignment of overtime if, in the judgment of
 13 the nurse, the overtime would jeopardize patient or employee safety.

14 (b) This section does not apply to

15 (1) a nurse on duty in overtime status because of an unforeseen
 16 emergency situation that could otherwise jeopardize patient safety;

17 (2) a nurse fulfilling prescheduled on-call time;

18 (3) a nurse voluntarily working overtime;

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

21 (c) After working 12 or more consecutive hours, a nurse shall be allowed not
 22 less than eight consecutive hours of off-duty time immediately following the end of
 23 that period of duty.

24 (d) A health care facility shall provide for an anonymous process for patients
 25 and nurses to make complaints related to staffing levels and patient safety.

26 (e) In this section, "unforeseen emergency situation" means an unusual,
 27 unpredictable, or unforeseen situation caused by an act of terrorism, disease outbreak,
 28 natural disaster, or other act of God, but does not include a situation in which a health
 29 care facility has reasonable knowledge of increased patient volume or inadequate
 30 staffing because of staff scheduling, vacations, medical leave, or other foreseeable
 31 cause.

1 **Sec. 18.09.020. Prohibition of retaliation.** A health care facility may not
2 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
3 Board of Nursing against a nurse for exercising rights under this chapter or for the
4 good faith reporting of an alleged violation of this chapter.

5 **Sec. 18.09.030. Regulations.** The commissioner shall administer this chapter
6 and adopt regulations for implementing and enforcing this chapter. In this section,
7 "commissioner" means the commissioner of labor and workforce development.

8 **Sec. 18.09.040. Report requirements.** A health care facility shall file a
9 semiannual report with the section in the Department of Labor and Workforce
10 Development responsible for research and analysis. The report for the six-month
11 period ending June 30 must be filed before the following August 1, and the report for
12 the six-month period ending December 31 must be filed before the following
13 February 1. The report must include the number of overtime hours worked, the
14 number of overtime hours that were mandatory, the number of overtime hours that
15 were voluntary, the number of on-call hours, the number of on-call hours that were
16 mandatory, and the number of on-call hours that were voluntary for nurses employed
17 by the health care facility. The report must also state the number of hours worked in
18 each month by nurses under contract with the health care facility. The report under this
19 section shall be available for public inspection.

20 **Sec. 18.09.900. Definitions.** In this chapter,

21 (1) "health care facility" means a private, municipal, state, or federal
22 hospital; psychiatric hospital; independent diagnostic testing facility; residential
23 psychiatric treatment center; skilled nursing facility; kidney disease treatment center
24 (including freestanding hemodialysis units); intermediate care facility; ambulatory
25 surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by
26 the Department of Health and Social Services under AS 47.55; correctional facility
27 administered by the Department of Corrections or the Department of Health and
28 Social Services; private, municipal, state, or federal facility employing one or more
29 public health nurses; long-term care facility; or primary care outpatient facility;

30 (2) "nurse" means an individual licensed to practice registered nursing
31 or practical nursing under AS 08.68 who provides nursing services through direct

1 patient care or clinical services and includes a nurse manager when delivering in-
2 hospital patient care;

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

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

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

9 **APPLICABILITY.** The first report required to be filed under AS 18.09.040, enacted in
10 sec. 2 of this Act, shall be filed before February 1, 2007, for the period July 1, 2006, through
11 December 31, 2006.

12 * **Sec. 4.** AS 18.09.040, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
13 July 1, 2006.

14 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2007.