

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE**  
Anchorage, Alaska  
August 29, 2005  
1:43 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Paul Seaton, Vice Chair  
Representative Tom Anderson  
Representative Lesil McGuire  
Representative Sharon Cissna (via teleconference)  
Representative Berta Gardner

**MEMBERS ABSENT**

Representative Vic Kohring

**COMMITTEE CALENDAR**

STATUS OF PERSONAL CARE ATTENDANT REGULATIONS

- HEARD

HOUSE BILL NO. 303

"An Act expanding reimbursable waiver services under Medicaid waivers for older Alaskans and adults with physical disabilities to include adult companion services; and relating to legislative intent concerning eligibility and coverage for personal care attendant services."

- HEARD AND HELD

HOUSE BILL NO. 271

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

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 303

SHORT TITLE: ADULT COMPANION SERVICES WAIVER

SPONSOR(S): REPRESENTATIVE(S) WILSON

05/06/05 (H) READ THE FIRST TIME - REFERRALS  
05/06/05 (H) HES, FIN  
08/29/05 (H) HES AT 1:30 PM Anch LIO Conf Rm

BILL: HB 271

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

SPONSOR(S): REPRESENTATIVE(S) WILSON

04/15/05 (H) READ THE FIRST TIME - REFERRALS  
04/15/05 (H) L&C, HES, FIN  
04/30/05 (H) L&C AT 1:00 PM CAPITOL 17  
04/30/05 (H) Moved Out of Committee  
04/30/05 (H) MINUTE(L&C)  
05/02/05 (H) L&C RPT 4DP 3NR  
05/02/05 (H) DP: CRAWFORD, LYNN, GUTTENBERG,  
ANDERSON;  
05/02/05 (H) NR: LEDOUX, ROKEBERG, KOTT  
05/03/05 (H) HES AT 3:00 PM CAPITOL 106  
05/03/05 (H) Heard & Held  
05/03/05 (H) MINUTE(HES)  
08/29/05 (H) HES AT 1:30 PM Anch LIO Conf Rm

**WITNESS REGISTER**

JON SHERWOOD, Medical Assistant Administrator IV  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

POSITION STATEMENT: Provided information regarding the status  
of the personal care attendant regulations and waivers in  
general.

JANET CLARKE, Assistant Commissioner  
Finance and Management Services  
Department of Health and Social Services  
Juneau, Alaska

POSITION STATEMENT: Reviewed HB 303, and related that the  
department believes it's premature to pass this type of  
legislation at this point; provided information on HB 271.

REBECCA BOLLING, President  
Alaska Nurses Association  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 271, expressed  
concerns with regard to mandatory overtime.

RUSSELL GRANGE, Chief Human Resources Officer  
Providence Health System - Alaska

Anchorage, Alaska  
POSITION STATEMENT: Expressed concerns with HB 271.

DIANE O'CONNELL, Labor Program Director  
Alaska Nurses Association  
Juneau, Alaska  
POSITION STATEMENT: Testified on HB 271.

MARCIA COOPER, RN  
Alaska Psychiatric Institute  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 271.

J.W. POUND, RN  
Alaska Psychiatric Institute  
Anchorage, Alaska  
POSITION STATEMENT: During hearing of HB 271, related API's wage information.

MIKE ALEXANDER, RN  
Alaska Psychiatric Institute  
Anchorage, Alaska  
POSITION STATEMENT: During hearing of HB 271, expressed concerns with mandatory overtime.

DOROTHY FULTON, Executive Administrator  
Alaska Board of Nursing  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 271.

SHARA SUTHERLIN, Chief Nurse Executive  
Providence Alaska Medical Center  
Anchorage, Alaska  
POSITION STATEMENT: During hearing of HB 271, related Providence's work with regard to overtime.

PATRICIA CENTER (PH), Chair  
of the Legislative Committee  
Alaska Nurses Association  
Anchorage, Alaska  
POSITION STATEMENT: During hearing of HB 271, related information regarding the nursing shortage.

STACEY ALLEN (ph), RN  
Alaska Regional Hospital  
Laborers' Local 341  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 271.

RON ADLER, CEO  
Alaska Psychiatric Institute  
Department of Health and Social Services  
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 271, answered questions.

MILA COSGROVE, Director  
Division of Personnel  
Department of Administration  
Juneau, Alaska

POSITION STATEMENT: During hearing on HB 271, related ways in which the division is addressing [the nurse shortage].

ROD BEANY (PH)  
(No address provided)

POSITION STATEMENT: During hearing on HB 271, expressed the need to find ways to address competitive salaries and have the ability to make adjustments when necessary in order to have some parity with the private sector.

#### **ACTION NARRATIVE**

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at [1:43:05 PM](#). Representatives Wilson, Seaton, McGuire, and Gardner were present at the call to order. Representative Anderson and Cissna (via teleconference) arrived as the meeting was in progress.

#### Status of Personal Care Attendant Regulations

[Due to technical difficulties, the beginning of the meeting was not recorded. The recording begins as the committee was hearing the status of personal care attendant regulations.]

JON SHERWOOD, Medical Assistant Administrator IV, Department of Health and Social Services (DHSS), informed the committee that currently each agency uses its own assessment tool. The [new] assessment would be administered by the state or state contractor rather than by the PCA [personal care attendant] agency itself. He related the need to implement clearer standards for providers. As a result of some of the public comments, some adjustments to the proposed regulations will have

to be made, he said. He indicated that those changes should be available for the commissioner of DHSS to adopt some time in September.

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CHAIR WILSON opined that it's good to know that the system works and that public comments do make a difference. She commended the department on that.

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REPRESENTATIVE SEATON asked if there was any particular area of the 14 points that received the most comments and in most need of revision.

MR. SHERWOOD noted that one area that received a lot of concern was in regard to the standardized assessment and having it performed by the state. Although he attributed some of that concern to unfamiliarity with the new assessment tool, he also attributed it to the state's ability to perform the assessments in a timely manner. The regulations make some provisions for short-term authorization when there is an urgent need for care. There may be some further revisions to that, he noted. Furthermore, the department is reviewing whether the regulations can specify a guaranteed time [for some level of service].

MR. SHERWOOD identified the other area that received much concern as the prior authorization for all personal care services. Again, the concern was that this could complicate the administration and billing process for providers. The aforementioned requires a bit more paperwork and management. If the state doesn't issue the prior authorization numbers in a timely fashion, it can slow down the payments. Furthermore, there are concerns with regard to the [department's] ability to do that.

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CHAIR WILSON noted that due to some abuse of the program, these [regulation changes] are occurring. Perhaps by the next session it will be apparent whether the changes are helping. Still, she noted, it will be difficult because people will continue to come online.

REPRESENTATIVE SEATON informed the committee that the October issue of Governing Magazine includes an interview with U.S.

Secretary of Health and Human Services, Michael Leavitt, in which he says that states shouldn't need a waiver to use home and community care with a long-term population. He asked if the legislature has received any indications from the federal government that it is implementing any changes that would impact the regulations being modified.

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MR. SHERWOOD explained that states have the ability to provide personal care as part of the regular state plan, and outside of the waiver process. Currently, Alaska provides its personal care services as a state plan service. Therefore, proposed changes to eliminate the waiver requirement wouldn't impact these regulations, although it would impact other services that [the state] provides. Mr. Sherwood said he wasn't aware of anything proposed for federal Medicaid reform that would directly impact these regulations, although there have been some discussions on generic items such as the total cap on Medicaid administrative expenses allowed by the state.

HB 303-ADULT COMPANION SERVICES WAIVER

[1:50:16 PM](#)

CHAIR WILSON announced that the next order of business would be HOUSE BILL NO. 303, "An Act expanding reimbursable waiver services under Medicaid waivers for older Alaskans and adults with physical disabilities to include adult companion services; and relating to legislative intent concerning eligibility and coverage for personal care attendant services."

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JON SHERWOOD, Medical Assistant Administrator IV, Department of Health and Social Services (DHSS), per the chair's request, explained that a Medicaid waiver is a device allowed by federal law to bypass the normal limits that federal regulations would impose on a state in operating a Medicaid program. Under normal federal law certain services can and cannot be provided. Therefore, a waiver allows those services not normally allowed under federal law to be provided with some conditions. In Alaska, waivers are usually home- and community-based service waivers. Under the home- and community-based services waiver, the state is allowed to provide certain services as an alternative to nursing home care and institutions for the mentally retarded and developmentally disabled. Mr. Sherwood

explained that under a waiver, the state has to define the services it will offer, which have to be reasonably related to meeting the needs of the target population.

MR. SHERWOOD, in response to Chair Wilson, specified that Alaska has stayed with standard definitions, with some modifications. It's simpler to use the federal government's definition because there is less review of it, he noted. As part of the process of submitting a waiver, the state has to specify the number of people to be served. He highlighted that waivers are different from the rest of Medicaid because under the rest of Medicaid if a state meets the basic eligibility criteria, the service is provided. However, under waivers, once the state specifies the number of people it will serve, no more people can be served even if the eligibility criteria is met because the state wouldn't have the authority to add more people to the waiver.

1:55:11 PM

MR. SHERWOOD, in further response to Chair Wilson, said that people [beyond the specified amount in the waiver] can be added any time during the year as long as the department has received authority from the federal government to serve additional persons. He explained that part of what the department does to get a waiver approved is to show that the waiver will be cost neutral in that the department won't spend more on individuals in a community setting than it would for those in an institution. A complicated formula is offered as proof of the aforementioned. Therefore, any time the number of people served is changed, that formula has to be resubmitted.

MR. SHERWOOD specified that Alaska has four waivers. There is a waiver that serves older Alaskans, those 65 years and older who meet nursing home level care. Another waiver serves adults with physical disabilities, those between the age of 21 and 64 who meet nursing home level care. Yet another waiver serves children with complex medical conditions, those children up through the age of 21 who would be served by a nursing home or long-term hospitalization. Finally, there is a waiver that serves people of all ages with mental retardation or developmental disabilities which meet the institutional standard for the Intermediate Care Facility for the Mentally Retarded (ICFMR). Mr. Sherwood informed the committee that at any given time, about 2,800 people on waivers are served. He recalled that in 2005, a little under 3,600 people on waivers were served. These waivers have been available since late 1993, he noted. Alaska obtained waivers to serve people of all ages for

both nursing home and ICFMR levels of care. Furthermore, Alaska's breadth of services is fairly wide, he related. For instance, Alaska's waivers offer care coordination, payment for services in assisted living facilities, adult day care, private duty nursing, respite, chores, meals, social transportation, environmental modification, specialized equipment and supplies, and a wide range of habilitative services for those with developmental disabilities. Mr. Sherwood related that the companion service is probably the only service not offered under a waiver.

[2:00:12 PM](#)

MR. SHERWOOD informed the committee that each waiver requires filling out a document that is 60-80 pages with backup materials. The initial approval period is three years, and the waivers are renewed every five years. In fact, this fiscal year the department is preparing for renewal for all four of the waivers. He explained that before the waivers are renewed, they must undergo federal review, which occurred about a year ago. Based on that review, Mr. Sherwood said he expected that the department will have to provide additional documentation regarding the department's quality assurance methods. He related that over \$100 million was spent on the waivers in fiscal year (FY) 05. In conclusion, Mr. Sherwood opined that Alaska has been very successful in using waivers to avoid institutionalization.

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CHAIR WILSON requested a list detailing the services provided under each waiver.

MR. SHERWOOD agreed to do so.

[2:03:08 PM](#)

JANET CLARKE, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services, began by reviewing HB 303. Section 1 is legislative intent, which basically addresses the personal care attendant program. She then turned attention to subsection (b) on page 2, line 28, which lays out the intent to restore the nonmedical care supervision and socialization services through companion services. Section 2 outlines the direction from the legislature to seek assistance for an additional waiver, referred to as companion care for services for older Alaskans and adults with

physical disabilities. She opined that the committee probably saw this language in legislation such as HB 125 and HB 193.

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MS. CLARKE related that the department believes that it's premature to pass this type of legislation at this point. Currently, the department is performing a long-term care study, which will help determine what services are necessary in the continuum of care. To pass this legislation before the study is complete is a bit premature, she reiterated. Ms. Clarke explained that merely adding this additional service on top of the existing service system without reviewing all of the other components, some inefficiencies and costs will occur. The department has been taking steps to look forward at the Medicaid program, specifically a contractor has been acquired to help the department develop a better long-term forecast for Medicaid. As part of that, the contractor is reviewing the state's demographics and outlining the services being used. Based on those demographics, the contractor is relating what the service array will look like in the future. Furthermore, the department is embarking on the long-term care study. She opined that both studies are trying to help the department get a handle on the Medicaid budget as well as the program itself. The hope, she further opined, is to obtain advice on how to best structure the state's Medicaid program for the future.

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MS. CLARK turned attention to the draft fiscal note for HB 303.

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REPRESENTATIVE GARDNER inquired as to when the information from the two contractors will be available.

MS. CLARKE answered that there should definitely be information regarding the long-term forecast for Medicaid available by January, but perhaps as early as November. In response to Chair Wilson, Ms. Clarke agreed to provide the chair with a summary of the information when available.

MR. SHERWOOD informed the committee that the notice of intent to award the long-term care study has been issued. He estimated that a contractor will probably be officially on board about September 15th. According to the terms of the request for proposals (RFP), the final report should be available by

February 10 although there may be some interim information prior to that.

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MS. CLARKE referred to page 1 of the draft fiscal note. The fiscal note projects that if HB 303 were to pass and the department implemented regulations to add the service halfway through the fiscal year, in FY 07 the cost would be \$759,600. In FY 08, there would be a full year of costs for the program and the cost escalates forward such that in 2011 adding the service would cost over \$31 million. In response to Chair Wilson, Ms. Clarke referred to page 2 of the fiscal note that attempts to cost out companion services. Part of the cost model was that companion services wouldn't replace any other services, but would be in addition to existing services. Furthermore, [the cost model] would allow the primary caregiver to sleep during normal night-time hours when the care recipient may not be left safely alone. The aforementioned is a significant part of the cost. Page 2 of the fiscal note relates that currently there are 1,915 older Alaskans and adults with disabilities receiving waiver services, of those about 570 reside in an assisted living home and thus wouldn't be eligible. Therefore, the 1,345 is used and it's estimated that approximately 10 percent of those would have caregivers who would utilize companion services for 10 hours a day to allow them to work full-time. The median cost used for unskilled respite care workers was \$19.72 per hour. For overnight supervision, the assumption was that 10 percent of the 1,345 recipients would be in need of overnight companion services. If those were limited to nine hours per evening and three nights per week, the cost is \$3,737.70 for 135 recipients per year. Of the approximately 1,200 recipients who don't qualify for work-related or overnight companion services, the department estimates that 90 percent would utilize basic companion services, limited to 10 hours per week. Ms. Clarke acknowledged that the costs are startling, but she opined that it does all add up.

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REPRESENTATIVE McGUIRE expressed interest in the study reviewing whether there is a population currently living in an institution-like setting who could live in a home environment with the assistance of a personal care attendant and the adult companion services. She questioned whether any of the aforementioned population would save the state money or create a neutral fiscal impact.

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MS. CLARKE clarified that the department didn't calculate any offsetting costs. To qualify to be in a nursing home one has to meet the nursing home level of care. She highlighted that the growth of nursing homes in Alaska has really been constrained for the last 10-15 years. Prior to the availability of home- and community-based services, the state's only source of services for seniors were nursing homes. Ms. Clarke related the department's belief that there will always be those who have the need for the high level of nursing home care. She reiterated that the state has been lucky in maintaining a fairly static number of nursing home beds, which the department believes will continue in the future.

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MR. SHERWOOD addressed the question regarding keeping people out of an assisted living home, which companion services would probably allow. However, when the individual needs extensive overnight or daytime supervision while someone is out of the house working, the wages for the companion would probably be comparable to personal care/respice care provider, which is around \$20.00 per hour. When providing companion services on a large scale, there isn't as much of an economy of scale as would be achieved in an assisted living home. Therefore, the department doesn't expect to save money by keeping those with more intensive needs out of assisted living homes and placing them in companion services. Although there might be individual cases in which money would be saved, there will also be cases in which more money would be spent. Under the waiver, there would be an overall cost neutrality because once a service is offered there isn't a lot of ability to restrict the service as long as it's cheaper than an institution.

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REPRESENTATIVE CISSNA informed the committee that companion services are listed in the regulations, although such services haven't been implemented. The aforementioned would make a difference in terms of the timing, she opined. She related that she has recently been involved in workshops regarding senior services from which she has surmised that Alaska is going through some of the same things other states have experienced in the past. Other states and the Legislative Legal and Research Services 2004 study have found that the average for [companion

care services] is \$50 or so a day, which is significantly less than nursing home care. She inquired as to the department's comments on that.

[2:24:43 PM](#)

MR. SHERWOOD opined that the department would agree that home- and community-based services are significantly less expensive than institutional care. However, the department doesn't believe companion services would significantly reduce the amount of institutional care for which the [department] pays. Already, the [department] does an impressive job with regard to serving people through the home and the community and have a relatively small percentage of folks served in institutional care. At any given time, of the 3,300 people [being served], only about 500 are in nursing homes. Mr. Sherwood related that the home- and community-based system, including companion services, would increase overall expenditures on waivers that wouldn't be offset by a decline in nursing home units.

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REPRESENTATIVE CISSNA related that she has received the sentiment of confusion with regard to the changes being put in place. Therefore, she was pleased to hear Ms. Clarke's desire not to include more changes before a study has been done. Representative Cissna then expressed interest in how the state will increase its efforts to make decisions regarding Medicaid. She opined that the changes [from last summer and these proposed today] are "incredibly brutal."

[2:28:55 PM](#)

MR. SHERWOOD, in response to Representative Seaton, said that the large effect of companion services is that it would allow people to remain in their own home versus an assisted living facility [or] a nursing home.

[2:30:04 PM](#)

CHAIR WILSON surmised that there are many questions, and therefore it would serve the committee to wait until it receives the reports before deciding what to do next.

[HB 303 was held over.]

HB 271-LIMIT OVERTIME FOR REGISTERED NURSES

[2:30:44 PM](#)

CHAIR WILSON announced that the last order of business would be HOUSE BILL NO. 271, "An Act relating to limitations on overtime for registered nurses in health care facilities; and providing for an effective date."

[2:34:16 PM](#)

CHAIR WILSON reminded the committee that she introduced HB 271 after hearing concern about mandatory overtime from nurses from the Alaska Psychiatric Institute (API), the Department of Corrections, and the Pioneers' Homes. As the chair of the committee, she opined that she was concerned with regard to public safety when a nurse is forced to work overtime.

[2:37:07 PM](#)

REPRESENTATIVE GARDNER inquired as to whether mandatory overtime for nurses is customary in private facilities.

CHAIR WILSON said she didn't know.

The committee took an at-ease from 2:38 p.m. to 2:44 p.m.

[2:44:45 PM](#)

REBECCA BOLLING, President, Alaska Nurses Association (AaNA), explained that AaNA is concerned about mandatory overtime and has requested that the legislature review this issue. Mandatory overtime is a nationwide issue, she noted. Therefore, AaNA has urged all states to review this issue and if necessary pass legislation such as HB 271. Although HB 271 focuses on the nurse, this legislation is first and foremost based on a concern for patient safety.

[2:46:11 PM](#)

MS. BOLLING highlighted that mandatory overtime is one of the notable factors contributing to medical mistakes and poor quality patient care. In fact, the Institute of Medicine (IOM) estimates that 44,000-96,000 hospital deaths can be attributed to medical errors each year. Therefore, the IOM has recommended that all overtime, voluntary or mandatory, for nurses be curtailed. Ms. Bolling reminded the committee that nationwide, and especially in Alaska, data shows a growing shortage of

health care workers, particularly registered nurses. "As the nursing shortage increases, so does the use of mandatory overtime," she noted. Since as many as 20 percent of the nursing workforce is planning to leave the profession in the next five years, it's important to review prohibiting mandatory overtime as an aspect of recruiting and retaining nurses in Alaska. Although there are a number of ways to address the issue, HB 271 specifies that a patient's safety shouldn't be put at risk in order to achieve a short-term solution for a larger problem. Furthermore, the legislation specifies that the health and safety of nurses shouldn't be at risk either. She acknowledged that there will be questions raised regarding the potential costs for health care facilities. However, Ms. Bolling urged the committee to review the costs resulting from medical errors and nurse absenteeism.

[2:47:57 PM](#)

MS. BOLLING related the working conditions that run nurses away from the bedside, the hospital, and in some cases the profession itself. Therefore, it's not surprising there is an exodus of nurses in many health care settings, particularly settings that use mandatory overtime as a means to deal with inadequate staffing and shortages. Ms. Bolling reiterated that HB 271 recognizes that errors do occur during medical treatment, particularly when nurses work very long hours and doing so consecutively. In conclusion, Ms. Bolling thanked the committee and Chair Wilson for making the effort to learn about this important issue within the nursing profession and the health care community at large. She offered that AANA is willing to work with the legislature and the administration to resolve this issue.

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MS. BOLLING, in response to Representative Gardner, reiterated that the Institute of Medicine has made the suggestion that all overtime, voluntary and mandatory, for nurses be curtailed.

REPRESENTATIVE GARDNER asked if mandatory overtime is a problem for nurses in both the state and private sectors.

MS. BOLLING replied yes.

[2:50:39 PM](#)

CHAIR WILSON inquired as to how many states have prohibited mandatory overtime.

MS. BOLLING said she didn't know, but deferred to a future witness.

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REPRESENTATIVE SEATON returned to the latest issue of Governing, which relates on page 24 that 90,000 patients in the U.S. die per year due to errors. He asked if there is any data that details the number of deaths attributable to the condition of mandatory overtime.

MS. BOLLING said that she didn't have such data, but offered to obtain that data for the committee.

[2:52:08 PM](#)

RUSSELL GRANGE, Chief Human Resources Officer, Providence Health System - Alaska, informed the committee that over the past three years the costs of overtime have increased. In response to Chair Wilson, Mr. Grange explained that Providence has a practice of "mandatory on-call" in some areas of the hospital. However, he said that it's infrequent that employees are expected to work overtime on a mandatory basis. In regard to the specifics of the aforementioned practice, Mr. Grange deferred to the nurse executive who will be speaking later.

[2:54:15 PM](#)

MR. GRANGE informed the committee that the average overtime expenditure for Providence Health Care System in Alaska for registered nurses (RNs) over the past three years is \$4.8 million. Therefore, for RNs to increase that to triple time for overtime would increase the cost to \$9.6 million. Within the Providence Health System, there is a practice of trying to be comparable or equitable with pay, he noted. Therefore, if the triple time pay practice for overtime was expanded to all clinical employees, the cost would rise to \$7.8 million or with triple time it would be \$15.6 million. Therefore, triple time for all health care workers for the Providence Health Care System would increase from \$9.6 million to \$19.2 million annually.

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MR. GRANGE, in response to Representative Gardner, said that if HB 271 passed and there was mandatory overtime pay at triple time, there would be a disincentive for employees who currently volunteer to work overtime to continue to volunteer. He explained that Providence Health Care System's overtime calculations have been based on total overtime hours at time and a half versus triple time. Mr. Grange highlighted what he called the national challenge of the rising cost of health care. The customers, in this case the patients, would have to pay for the increased costs. Therefore, instituting triple time for overtime would exacerbate the cost of health care.

[2:58:09 PM](#)

REPRESENTATIVE SEATON directed attention to page 3 of HB 271 where it refers to triple time. He related his understanding that triple time and a fine are the penalties for violation of the chapter. However, Mr. Grange's testimony suggests that HB 271 would mandate triple time for any overtime.

MR. GRANGE related his understanding that facilities have one hour to find volunteers for overtime. The concern, he reiterated, is that there would be a disincentive for employees to volunteer to work for time and a half when they could receive triple time if they merely waited an hour. Therefore, the facility would automatically be placed in the [triple-time] situation.

[3:00:22 PM](#)

REPRESENTATIVE SEATON asked if Mr. Grange would be more comfortable if a nurse was paid time and a half for overtime and another time and a half was added to the fines. Therefore, it wouldn't be compensation to the nurse, but rather would just be part of the fines. For example, currently a second violation [of mandatory overtime] would result in a \$500 fine with triple time. However, Representative Seaton suggested that in the aforementioned situation the nurse would receive time and a half and an additional equal amount per the [overtime] hours would be added to the fine.

MR. GRANGE surmised then that the employer would pay the same amount of money, although it would be in the form of a fine rather than compensation for staff members.

[3:02:48 PM](#)

MR. GRANGE related that [the human resource managers] have a philosophical preference to not work people overtime if possible. In fact, at Providence it's very infrequent that employees are required to work overtime because of the associated problems and the downside to employee relations. However, there are occasions in the health care business when circumstances arise such that there's no choice but to have people work overtime. Therefore, to have a fine of the nature described when the situation is unavoidable would be problematic.

[3:04:35 PM](#)

CHAIR WILSON inquired as to the per hour wage of an entry level RN.

MR. GRANGE specified that an entry level RN effective 5/1/05 receives \$21.20/hour base rate, without benefits. A nurse at Step 31, the highest, is paid \$38.42/hour.

[3:06:07 PM](#)

MR. GRANGE acknowledged the possible alternative of placing nurses on-call and then calling them in instead of triple time. The aforementioned would increase Providence's on-call expense from \$1.4 million to almost \$3 million and place people on-call who don't need to be today. When an employee is on-call, he/she has a to be on site within 60 minutes from the time called. The aforementioned really restricts people's lives. Therefore, the on-call option is a poor alternative to triple time.

[3:07:35 PM](#)

REPRESENTATIVE SEATON asked if Mr. Grange is referring to page 2, line 16 of HB 271 and suggesting that the provision may provide a situation in which many people are scheduled for lots of on-call time in order to avoid the triple time consequence, although it isn't necessary.

MR. GRANGE replied yes.

[3:08:26 PM](#)

REPRESENTATIVE GARDNER asked if Mr. Grange has a sense of how the shortage Providence experiences compares to the chronic shortage for state institutions.

MR. GRANGE answered that the vacancy rate for RNs within the Providence Health System in Alaska is approximately 6 percent, which is well below the national average for vacancy rate. He said he didn't know how it compares with the state.

3:09:20 PM

CHAIR WILSON inquired as to how much more traveling nurses, "travelers," are paid per hour.

MR. GRANGE said he would provide that to the committee.

CHAIR WILSON recalled that four years ago [Wrangell's] hospital was paying \$45/hour for travelers.

MR. GRANGE related that [Providence Health Care System] tries to minimize its use of travelers in order to have the continuity of its own employees.

MR. GRANGE, in response to Representative Seaton, confirmed that the 6 percent vacancy rate is filled by voluntary overtime and travelers.

3:11:19 PM

DIANE O'CONNELL, Labor Program Director, Alaska Nurses Association, informed the committee that the Alaska Nurses Association does represent the nurses of the Providence Alaska Medical Center. Ms. O'Connell opined that HB 271 isn't designed or intended to discourage volunteerism. The legislation provides for voluntary overtime as well as prescheduled on-call time. She characterized the prescheduled on-call as a key part of the legislation. Only a couple of units in Providence have a mandatory overtime question because there has been work to resolve the issues. However, when there is a mandatory call, there is mandatory overtime eventually. She pointed out that there is a shortage of operating nurses, and as the shortage becomes more severe the nurses on staff are more frequently called upon to be on-call. Ms. O'Connell said that although it's being handled fairly well currently, she expressed concern that as the nursing shortage continues it will worsen. Therefore, she expressed the desire to discourage mandatory overtime while encouraging other ways to address this problem. Ms. O'Connell said that the nurses with which she has spoken aren't interested in overtime, whether it's triple time or time and a half. The triple time was used in order to grab attention and deter the use of overtime.

[3:15:48 PM](#)

MS. O'CONNELL said that she didn't fully understand Mr. Grange's position on the on-call status. In Providence, one unit already has people on-call. She didn't believe many places in the hospital have a set on-call schedule, although the Alaska Psychiatric Institute is a different matter to which they can speak. She then informed the committee that 10 states have [passed] legislation limiting the use of mandatory overtime and similar legislation has been introduced in 15 other states, including Alaska.

[3:17:02 PM](#)

REPRESENTATIVE GARDNER asked if the new nursing program at the University of Alaska - Anchorage is working toward alleviating the shortage or will many of those graduates seek employment in other [states].

MS. O'CONNELL said the program can't help but help the situation.

[3:18:03 PM](#)

REPRESENTATIVE SEATON returned to his earlier suggestion regarding triple time and asked whether it would be a concern for Ms. O'Connell.

MS. O'CONNELL reiterated that her main concern is to discourage mandatory overtime, the means by which it's accomplished may continue to be the subject of conversation. Triple time isn't necessary for the nurse, she opined. Although it seems that the individual that's the "victim" in this case should receive additional compensation, limiting overtime results in the individual not receiving compensation anyway. In further response to Representative Seaton, Ms. O'Connell acknowledged the association's concern with regard to prescheduled on-call time, but noted that it understands the need for people to be on-call and come in during emergencies. The desire, she opined, is to limit [prescheduled on-call] to emergencies because there's a difference between being on-call for emergencies and mandatory overtime.

[3:21:07 PM](#)

REPRESENTATIVE SEATON expressed the need for the Alaska Nurses Association to review this and provide suggestions as to how the distinction between on-call for emergencies and mandatory overtime can be made in the law.

3:21:48 PM

CHAIR WILSON reviewed HB 271, which limits the overtime in nursing such that a nurse may not be required or coerced into accepting an assignment of overtime if the nurse believes the overtime would jeopardize the patient's or the employee's safety. Chair Wilson specified that HB 271 doesn't apply to the following: a nurse on duty in overtime status because of an unforeseen emergency situation; prescheduled on-call time; a nurse voluntarily working overtime; the first hour of overtime status; and a critical access hospital. However, the legislation does require that the nurse should have at least 8 consecutive hours time off after working 12 or more consecutive hours. Furthermore, the health care facility should provide for an anonymous process for patients and nurses to make complaints related to staffing levels and patient safety. The legislation has protections for complainants and specifies the enforcement, offenses, and penalties.

3:26:38 PM

MARCIA COOPER, RN, Alaska Psychiatric Institute (API), informed the committee that nurses at API are required to work overtime shifts and usually have to work overtime shifts every week. However, during peak times, such as summer vacation and holidays, the overtime shifts are more frequent than once a week. Ms. Cooper related that she works the 11:00 p.m. to 7:00 a.m. shift, and therefore a mandatory overtime shift would begin at 7:00 a.m. During that time, Ms. Cooper related that she is required to give the morning medications. After already working eight hours, she said she suffers from fatigue, which isn't conducive to the proper and accurate administration of medication to the patients. From July 1 to August 26 of this year, API employees, including the psychiatric nursing assistances as well as the RNs, have worked a total 437 overtime shifts. She noted that many nurses volunteer for overtime in order to remove their names from the mandatory overtime list to ensure they won't be required to come in on a day they are scheduled to be off. Ms. Cooper informed the committee that in July 2005, API nurses worked 54 overtime shifts. She echoed earlier comments regarding that overtime results in nurses being more prone to mistakes, fatigue, and burnout. She specified

that burnout results in higher levels of turnover and a lack of experienced personnel, which is supported by many reputable journals.

MS. COOPER related that a 1992 American Journal of Public Health study found that nurses working variable schedules, such as mandatory overtime, were twice as likely to report an accident or error and two-and-a-half times more likely to report near miss accidents. The study concluded that these conditions related to increased error rates on the performance of tasks. A 2000 IOM report on safer health systems relates that designing safe medication administration systems for hospitals requires that nurses work with appropriate staff levels. "The report states that designing jobs with attention to human factors means attending to the effective work hours, work loads, staff ratios, sources of distraction, and inversion in assigned shifts which affects the workers' circadian rhythms and the relationship to fatigue, alertness, and sleep deprivation," she related. Ms. Cooper concluded:

In short, the practice of requiring nurses at API to work overtime shifts not only increases the fatigue and likelihood of burnout among the nurses, it also increases the chances of errors in patient care; compromising the responsibility of the staff and the hospital to provide reliable, accurate, and proper medical care for its patients. As such, it is imperative that HB 271 is passed, not just for the nurses but for the patients that we treat every day.

[3:30:52 PM](#)

MS. COOPER, in response to Representative Seaton, specified that the work schedule [for nurses] is usually 7.5-8 hours a day with 12 hour shifts on the weekend. In further response to Representative Seaton, Ms. Cooper said that the mandatory overtime is usually an 8 hour shift. She added that it has become more difficult to find someone who will split a shift.

[3:32:27 PM](#)

CHAIR WILSON asked if the mandatory overtime is such that the nurse doesn't work two shifts back-to-back but rather the nurse comes in on his/her day off.

MS. COOPER replied yes, adding that on Saturday, her usual day off, she worked from 3:00 a.m. to 7:00 a.m. The aforementioned

allowed her to get off the mandatory overtime list so that she would hopefully not have to stay this weekend.

3:33:04 PM

REPRESENTATIVE GARDNER posed a scenario in which HB 271 were law along with a continuing shortage of nurses, and inquired as to what would happen to the patients.

MS. COOPER said she couldn't answer that.

3:33:47 PM

REPRESENTATIVE CISSNA requested that someone comment on the turnover rate and number of employee sick days. She also requested that someone comment on the general retention rate of nurses.

3:35:36 PM

CHAIR WILSON inquired as to the entrance level and higher level salaries of a nurse at API.

MS. COOPER deferred to an upcoming speaker from API.

3:36:06 PM

J.W. POUND, RN, Alaska Psychiatric Institute, informed the committee that he has worked for API for 14 years. He related when he started with API he began as step A, RN2. Five years ago comparative studies were performed for Alaska's state nurses salaries because of problems with recruiting and retention. That study found that psychiatric nurse salaries at API were far below the national average. Therefore, a 10 percent increase in pay was given and kept for two-and-a-half years and then it was taken away by labor relations because of the semantics. The aforementioned left many RNs in financial hardship and again the union and the state are attempting to perform comparative studies, which reveal even lower salaries than that of the national average salaries [of nurses]. Mr. Pound informed the committee of the starting wages for nurses in various states, which highlighted API's low wages. Furthermore, API offers less evening and night differentials than most facilities and it doesn't offer a weekend differential at all. He offered examples of differentials in other states as well as other facilities in Alaska.

3:40:15 PM

MR. POUND pointed out that most facilities will have a bonus for every certification earned, such as for advanced life support, CPR, and board certification. Furthermore, facilities often pay a bonus for education and years of experience. However, API does not. Mr. Pound explained that the annual merit step increases amount to about \$.88 each year for the first eight years and then there are two longevity periods with an increase of \$1.09 for both. Toward the end of the [merit step increases] there are two five-year longevity periods with an average increase of about \$1.13 for both of the five-year periods. He noted that Providence, Alaska Regional, and Central Peninsula all have a 30-31 step program in which an increase is awarded annually with no empty longevity years. Mr. Pound then turned attention to the Cost of Living Allowance (COLA) for which the federal [employees] have a 25 percent COLA while [employees at API] have 1.5-2 percent COLA. In conclusion, Mr. Pound said:

When one adds up all the extras that the state does not allow to the basic RN's salary, one can see that the nurses at API fare far lower than any of the hospitals in our nearby surroundings or the national average.

3:42:54 PM

MIKE ALEXANDER, RN, Alaska Psychiatric Institute, began by informing the committee that he is one of the 12-hour nurses on the weekends. Mr. Alexander opined that his biggest concern with mandatory overtime is patient and employee safety. He related the scenarios in which mandatory overtime and low pay has caused nurses to leave API. He specified that the pay is important with regard to recruiting and retaining nurses. According to API's assistant director of nursing, if a nurse can be kept for two years, the nurse will stay. However, the mandatory overtime is brutal. Mr. Alexander emphasized his observation that the entire API staff is tired and nurses don't give patients their best when they are tired.

MR. ALEXANDER related how the nurses at API have tried to address the errors that occur with mandatory overtime by trying not to have the nurses working mandatory overtime deal with the medication cart. Furthermore, nurses volunteer for mandatory overtime when possible. In response to the earlier question regarding the top wage at API, he estimated that it is approximately \$33.00 [an hour].

[3:49:28 PM](#)

REPRESENTATIVE CISSNA inquired as to whether incidents of injuries in correctional and psychiatric facilities with violent patients is ever an issue [in conjunction with mandatory overtime].

[3:50:26 PM](#)

MR. ALEXANDER opined that the aforementioned is a factor because if a nurse is tired, the nurse may or may not pickup on the signs [of an impending violent incident]. He informed the committee that 90-96 percent of suicides in correctional facilities are hangings, which he estimated to be roughly the same percentage in psychiatric facilities. If staff isn't alert, warning signs might not be caught. Therefore, the desire is to have adequate staff. Prohibiting the use of mandatory overtime as a staffing tool is a major step forward.

[3:53:01 PM](#)

CHAIR WILSON, in response to Representative Cissna's earlier question, related that an IOM study regarding nurse work hours and health care errors estimates that annually 44,000-98,000 hospital deaths can be attributed to medical errors to which mandatory overtime is a serious contributing factor. Therefore, the IOM recommends that all overtime by nurses, whether voluntary or mandatory, should be curtailed.

[3:54:00 PM](#)

REPRESENTATIVE SEATON asked if there are people on the nursing staff who count on overtime for additional income, and therefore would leave if overtime was eliminated.

MR. ALEXANDER replied yes, at times. However, most of the nurses at API know when they've [worked] enough. He related that the overtime at API amounts to about \$4,800 per person/year. He opined that the overtime creates a perpetual cycle of needing someone to cover because staff become exhausted and call in because they aren't fit to work.

[3:57:36 PM](#)

DOROTHY FULTON, Executive Administrator, Alaska Board of Nursing, testified on behalf of the board in support of HB 271. The Alaska Board of Nursing, she related, feels that a nurse is a professional level person and should know when he/she is not safe to be practicing. After a 12 hour shift, [a nurse] certainly isn't safe to practice, she opined.

[3:59:36 PM](#)

SHARA SUTHERLIN, Chief Nurse Executive, Providence Alaska Medical Center (Providence), related she has been a nurse since 1976. Ms. Sutherlin informed the committee that Providence has an agreement with AaNA, which codifies the essential elements of nurse staffing in the hospital. The purpose of this agreement, she related, is to promote the mutual objective of providing quality patient care through stable employee relationships and to set forth the agreement reached with regard to wages, hours of work, and other terms and conditions of employment. Ms. Sutherlin related that Providence has utilized creative ideas and resources to address the issues that impact nursing care. For instance, a float pool is utilized. She explained that the float pool is a separate department within Providence that employs nurses who like combination care sets or have skill sets beyond care sets. The nurses in the float pool are placed where they are needed. Also, Providence has a registry or per diem staff to help supplement where needed as well as cover vacations. Traveler nurses, who tend to be seasonal, cover vacations as well as when there are core physician staffing issues.

MS. SUTHERLIN specified that Providence basically utilizes 12-hour shifts throughout the medical center, which is a combination of preference, as well as continuity of care. Providence also has rotational shifts as well as nurse educator positions. As pointed out by Dr. Linda Aiken (ph) and Dr. Porter O'Grady (ph), it's not always the number of nurses. Although the number of nurses at the bedside correlates to patient safety and outcomes, critical thinking and educational pursuits of professional staff make the difference, she opined. The goal of Providence is not to use mandatory overtime as a priority staffing tool, and therefore other avenues are reviewed. For example, in the OR there are nurse fellowships in order to allow nurses interested in doing something different to do so. Ms. Sutherlin informed the committee that Providence utilizes mandatory on-call in the CATH (ph) lab due to the emergency situations that can arise in an interventional cardiovascular patient.

MS. SUTHERLIN further informed the committee that Providence is focused on increasing patient access while simultaneously providing nurses the ability to rest between shifts. Last year, Providence, in attempting to decrease its need for travelers, expanded its ability to hire adult critical care nurses. In doing so, Providence faced spending more money to fill some of the core positions as well as to allow the nurses time off during the summer. She characterized the aforementioned as a retention issue yet to be solved.

[4:06:40 PM](#)

MS. SUTHERLIN, in response to Representative Seaton, confirmed that a full-time nurse at Providence would work three shifts per week.

[4:07:29 PM](#)

REPRESENTATIVE SEATON asked if Providence provides longer breaks during its 12-hour shift as compared to the 8-hour shift plus overtime at API.

MS. SUTHERLIN specified that at Providence there are 15 minute breaks every four hours. Furthermore, 30 minutes is given for meal breaks. In fact, Providence is using a log to ensure nurses receive their breaks in the adult critical care [division]. However, that's quite a challenge in critical care settings because critical care patients don't always comply with meal or break times.

[4:08:39 PM](#)

CHAIR WILSON recalled that when she was a nurse she scarcely remembers taking a 15-minute break, which she emphasized would be most important when one works a 12-hour shift on a regular basis.

[4:08:59 PM](#)

MS. SUTHERLIN related her personal belief that UAA has done much to address the nursing shortage. With Providence's vacancy rate of 4-6 percent, it hasn't had as many vacancies as [necessary] for the graduate nurses. Furthermore, the Providence Alaska Learning Institute is focused on intensifying its efforts for internships and fellowships as well as the resources with the advanced practice nursing team. She related that on average

Providence hires between 25-40 new graduates a year. Moreover, the hospital is connected with Spokane Community College for difficult to fill positions. She indicated the need to utilize creative ways to supplement staffing, such as rapid response teams, as recommended in the "The Wall of Silence."

4:11:38 PM

MS. SUTHERLIN, in response to Representative Seaton, confirmed that the 12-hour shifts are scheduled three days in a row or with breaks. Although there is a continuity issue, there is also a workplace balance issue. Ms. Sutherlin noted that Providence recently won an award in reviewing workplace balances and providing resources, such as child care centers in order to create a schedule that works for nurses and their families. However, she acknowledged that it's a challenge.

4:13:05 PM

PATRICIA CENTER (PH), Chair of the Legislative Committee, Alaska Nurses Association (AANA), submitted the written testimony of Kathleen Gettys (ph), chair of the Providence Collective Bargaining Unit. Ms. Center then turned attention to the issue of RNs who work for the state. The discussion today has been in regard to the API nurse shortage due to lack of pay and lack of competitive pay with the private sector. In the past, higher benefits made up for the aforementioned. However, that's not the case now [with Tier III and IV]. She alluded to the fact that API is not the only state facility having trouble with retention, it's also a problem with the corrections facility in Anchorage as well as the pioneers' homes. Furthermore, there are recruitment and retention problems for the Division of Public Health nurses. She recalled that there was a request for the Department of Administration to review the pay of nurses.

MS. CENTER then turned to mandatory overtime, which has resulted in a "death spiral" in other states. Since there's a shortage, employers have used "mandation" to make existing nurses work more and address the shortage. However, that increases injury and burnout rates amongst nurses. California, which was one of the first states to prohibit mandatory overtime, found in the three years after passage of the prohibition a 60 percent increase in nurses applying for RN licenses. Therefore, it's great that Alaska is being proactive in this matter. She then related that one of the reasons most of the hospitals within the state haven't had a problem [with mandatory overtime and low pay] is because they are covered by union contracts. Although

the unions [for nurses in private facilities] have been working on the issue, the state employees' union, under which the nurses in state facilities fall, isn't on top of nursing profession issues as much as the [private] hospital and nursing unions.

MS. CENTER related that the average age of nurses is approximately 48. Furthermore, the physical demands of hospital nurses are tremendous, especially as society becomes heavier. She highlighted that [UAA's] School of Nursing is trying to double its output, which Ms. Center hoped would coincide with the number of nurses who will retire in the next couple of years. She offered that most of the nurses who graduate from UAA do remain in Alaska, and therefore she expressed her belief that it's worthwhile to continue to support that effort.

[4:18:05 PM](#)

REPRESENTATIVE GARDNER asked if other states have tried to poach Alaska's nursing graduates.

CHAIR WILSON related that an unidentified speaker said he saw an advertisement on the Internet to which nine out-of-state agencies responded in three days.

[4:19:25 PM](#)

CHAIR WILSON commented that within public health various diseases that once were believed to be overcome are returning. Therefore, public health nurses are critical.

[4:20:37 PM](#)

REPRESENTATIVE CISSNA emphasized the need to ensure that all nurse positions are covered, especially in view of the public health concerns the state may face, such as the bird flu that is working its way across Siberia.

[4:21:54 PM](#)

CHAIR WILSON talked about a conference she attended in which the discussion was about when the pandemic will hit. Therefore, she was pleased that the state is talking about it and providing training on it.

MS. CENTER interjected that Alaska is fortunate in that it has a strong public health infrastructure.

[4:23:25 PM](#)

REPRESENTATIVE SEATON inquired as to how HB 271 compares with the legislation proposed or adopted in other states.

MS. CENTER related that HB 271 was drafted after legislation in other states. However, she deferred to others regarding the specifics. She related that studies have shown that as soon as a nurse goes into overtime, the chance of an error increases. Therefore, some states have specified a cap with regard to the amount of hours a nurse can work in a week. In further response to Representative Seaton, she said that at the moment [AaNA] is looking at the mandatory component of overtime.

[4:26:08 PM](#)

MS. O'CONNELL specified that AaNA isn't looking at an all-out ban of overtime but rather limits on mandatory overtime. She acknowledged that there are variations on the legislation, but she focused on the shortest and simplest version with a limit on overtime rather than a complete ban.

[4:27:17 PM](#)

REPRESENTATIVE SEATON commented on the difficulty in getting legislation through, and therefore expressed the hope that it isn't necessary to follow up with another piece of legislation later.

MS. O'CONNELL said that certainly isn't her goal, although she noted that there may need to be changes to HB 271 in order to address the concerns that have been specified.

[4:28:25 PM](#)

STACEY ALLEN (ph), RN, Alaska Regional Hospital, Laborers' Local 341, related that the Laborers' Local 341 supports HB 271. She said that there is precedent in other industries for limiting the time period an individual works due to public safety concerns. However, HB 271 is a bit different than how the issue has been addressed in other industries because it allows the nurse to say he/she is not safe.

[4:30:08 PM](#)

JANET CLARKE, Assistant Commissioner, Finance and Management Services, Department of Health and Social Services, related that

DHSS doesn't like using overtime. Furthermore, the department attempts to limit the amount of mandatory overtime it uses and utilize voluntary overtime when possible. As today's testimony has related, the managers, supervisors, and nurses work hard not to compromise care. In the specialized facilities, API and the pioneers' homes, the state is responsible for providing care for a very vulnerable population. Therefore, [DHSS] is in a Catch 22.

MS. CLARKE characterized mandatory overtime as a symptom of the circumstances. Overtime is a primary issue in API, the pioneers' homes, and the juvenile facilities, although the juvenile justice employees aren't nurses. Public health nurses don't have overtime issues, but there are recruitment and retention issues in that area. Ms. Clarke attributed the major cause of overtime to the fact that DHSS can't fill all of its nursing positions in a timely fashion. If the current budgeted authorized positions were filled, the problem with overtime would be negligible. She highlighted the vacancy problem by reminding the committee of Providence's vacancy rate of 4-6 percent as compared to [the state facilities] 15-20 percent vacancy rate for nurses. The turnover rate [for the state's nurses] is about 17 percent on average. She informed the committee that she recently was informed of a 23 percent vacancy rate for nurses at API.

MS. CLARKE, in addressing why overtime is used, turned to the national nurse shortage and said employers need to be proactive, flexible, and competitive. However, that's not the case for the state. Furthermore, nurses are represented by the general bargaining unit, which doesn't specialize in the nursing field.

[4:34:27 PM](#)

MS. CLARKE, in response to Chair Wilson, related that DHSS utilizes contract nurses, which are similar to travelers.

RON ADLER, CEO, Alaska Psychiatric Institute, Department of Health and Social Services, specified that of the three temporary relief agencies in Anchorage only two psychiatric nurses can be obtained to come to API. Such nurses would be paid between \$45-\$60, just as they would for a general medical facility like Providence. He noted that psychiatric nursing isn't the most desirable field.

[4:34:57 PM](#)

MS. CLARKE informed the committee that state facilities also utilize on-call nurses. However, it's very difficult to fill the high number of vacancies. Furthermore, the state doesn't offer some of the benefits that are attractive to nurse candidates, such as signing bonuses, on-site daycare, premium relocation programs, and a central recruiting effort in the state. Moreover, the state's hiring system doesn't provide flexibility for quick job offers. In fact, there have been a couple of instances in which a nurse, while waiting to complete the hiring process, has taken a position elsewhere. She pointed out that other employers offer yearly merit steps as nurses achieve certification levels, while the state's nurses top out at longevity steps as described earlier. Finally, Ms. Clarke highlighted that the state's salary schedule is below the market and thus is a barrier to recruitment and retention.

[4:37:26 PM](#)

MS. CLARKE returned to the earlier mentioned pay raise that was taken from state nurses after being in effect for two years. She explained that the former CEO of API saw that there were going to be issues in retention and recruitment of nurses as well as the market going in a different direction than the state's salary schedule. She pointed out that there is a provision in state pay for standby pay, which means that an individual is on call. Therefore, the former CEO decided to offer standby pay to all nurses. However, the union filed a grievance that the standby pay option should also be available to nursing assistants as well as nurses. During the arbitration phase, the state labor relations mandated that API stop paying standby pay to all nurses.

[4:38:55 PM](#)

CHAIR WILSON asked if it's equally as difficult to obtain nurse assistants as it is RNs.

MS. CLARKE replied no.

MR. ADLER interjected that it's more difficult to obtain RNs, who are licensed and without whom a hospital can't function.

MS. CLARKE, in response to Chair Wilson, related that most of the state employees are covered by the general government unit, which is the case with the RNs and the nurse assistants.

[4:40:29 PM](#)

MS. CLARKE opined:

We either have to have some special dispensation for some ability to be more proactive, flexible, and competitive or we're kind of in a Catch 22 because if we can't solve those causes of not being able to fill our authorized positions and this bill were to pass, you've really put us in a barrel. We really need to deal with those other issues as well, and that's ... what I would urge the committee to consider.

[4:41:05 PM](#)

CHAIR WILSON requested that Ms. Clarke think about what could be done legislatively to allow special dispensation for these facilities to [go outside of the state employee construct].

[4:41:31 PM](#)

MR. ADLER said that the three employees from API who testified today were remarkably accurate. He surmised that the three are relating that API isn't attractively priced in terms of the hourly wage.

[4:43:20 PM](#)

CHAIR WILSON pointed out that there is a teacher placement agency, which might be something that could be helpful for the recruitment of RNs.

[4:44:46 PM](#)

MR. ADLER noted that Providence does a nice job with regard to recruitment and retention. He suggested that at some point, the state is going to have to think outside of the box such that API, the pioneers' homes, and public health are viewed together and working under the umbrella of DHSS in order to create a lifetime of vocational experiences for licensed professionals [at all levels]. Perhaps such a think-tank within DHSS would be appropriate, he opined.

[4:45:47 PM](#)

CHAIR WILSON commented that such should be reviewed before the crisis gets worse because if the state doesn't gain control, institutions may close.

[4:46:05 PM](#)

REPRESENTATIVE GARDNER asked if this crisis is partly to blame for the empty beds at the pioneers' homes.

CHAIR WILSON said that it's one of the reasons.

[4:46:19 PM](#)

MR. ADLER informed the committee that API has an incredible workforce and one of the lowest restraint seclusion rates in the U.S. for a state psychiatric hospital. The ability to keep employees and patients safe is remarkable, he emphasized. However, the staff is suggesting that it's not going to be this way forever.

[4:46:54 PM](#)

MILA COSGROVE, Director, Division of Personnel, Department of Administration, informed the committee that the division oversees the state's recruitment services, employee relations, et cetera. In response to an earlier request for overtime figures, Ms. Cosgrove directed attention to a document entitled, "Overtime Paid in Fiscal Year 2005 to Nurses by Facility". She clarified that the aforementioned document only refers to nursing positions. The second and third columns relates that there are more employees who worked overtime than positions, which she attributed to the fact that the number of positions is the number of budgeted positions. A position may become vacant and be replaced during the course of the year, and therefore it's possible to have more employees over the course of a fiscal year than there are positions.

[4:48:56 PM](#)

CHAIR WILSON surmised then that if more people were recruited, the amount of overtime would decrease.

MS. COSGROVE replied yes, adding that the straight wages would increase because of the increase in employees. However, since these are employees of facilities that are open 24 hours a day, there will always be overtime issues. In further response to Chair Wilson, Ms. Cosgrove specified that the [overtime] figures refer to primarily time-and-a-half and don't include overtime for holiday purposes. She noted that there are special letters of agreement for employees of 24-hour facilities to "swap

holidays." The number 4 handout breaks down the specific job class titles, she pointed out.

MS. COSGROVE then returned to her testimony. She related that the U.S. is experiencing a general reduction in applicant pools, not just in nursing. The aforementioned is related to the aging of the Baby Boomers and the fact that there are less people to take their place. However, nursing is critical because the services can't merely be stopped when there isn't enough staff. Ms. Cosgrove turned to the national shortage of nurses that is caused by the same factors as well as the fact that there is an overall increase in the demand for nurses, in part attributable to the aging of Baby Boomers who require more health care as well as the way the U.S. administers its health care. She indicated that the duties and responsibilities assigned to nurses have changed over the years, which has also increased the demand for nurses.

[4:51:54 PM](#)

MS. COSGROVE turned attention to the "State Public Health Employee Worker Shortage Report", which speaks mostly to public health. The report relates that 85 percent of the state agencies responding to the survey indicated that severe personnel shortages were seen with health care personnel. Furthermore, the Department of Labor & Workforce Development has projected that between 2002 and 2012 there will be a 33.3 percent increase in registered nurse positions. She clarified that the aforementioned percentage is in addition to the positions that are already present and doesn't replace the outgoing employees. As an employer, the State of Alaska feels that pressure, she opined.

[4:52:55 PM](#)

REPRESENTATIVE SEATON returned attention to the overtime table and the last column referring to the average hours per position.

MS. COSGROVE specified that the column reflects the average hours worked per employee in these job classifications. However, because voluntary overtime is used first a list of employees with overtime hours worked would relate a huge [discrepancy]. Therefore, she requested the average hour per employee per the fiscal year.

[4:54:22 PM](#)

MS. COSGROVE continued with her testimony and related that the primary employers of nurses for the state are DHSS and the Department of Corrections. At the end of calendar year 2004, there were about 279 positions allocated to nursing classifications. The Division of Personnel tries to track turnover and retirement eligibility data, although the division is having difficulty with its aging system. Therefore, the data isn't 100 percent [accurate]. The handout in number 4 specifies that the [state] has about a 17 percent turnover rate [for nurses employed by the state], which looks quite different in the job class level. For instance, at the Nurse 1 level, there is a 50 percent turnover rate and at the Journey/Nurse 2 level the turnover rate is about 22 percent.

[4:55:40 PM](#)

CHAIR WILSON asked if exit interviews are performed in order to determine why the nurses employed by the state are leaving.

MS. COSGROVE replied yes, but it isn't highly used. She agreed with Chair Wilson that an exit interview would probably be helpful. Ms. Cosgrove then turned to the other factor that the division is reviewing, which is the aging of the workforce. Last year a fairly comprehensive retirement analysis was published. That analysis relates that at the end of fiscal year 2004, 13.9 percent of employees in nursing positions were eligible to retire in one year. That percentage increases to 35.2 percent when viewed in a five-year window. Therefore, this confluence of events needs to be watched, she opined.

[4:56:47 PM](#)

CHAIR WILSON turned attention to the document that specifies that by 2012, [the state] will need another 1,666 nurses, which doesn't include the one-third that will be lost to that point.

MS. COSGROVE replied yes, and specified that the document from the Department of Labor & Workforce Development refers to positions while she is now discussing people available to fill those positions. In further response to Chair Wilson, Ms. Cosgrove, said that one-third of the current 280 positions would be approximately 95 positions. She confirmed that the [document] is referring to the public and private sector in Alaska. Ms. Cosgrove explained that she isn't saying that the state will necessarily increase its need for nurses by 33 percent, but 35 percent of the state's nurses can retire in five years. Therefore, even if the state doesn't increase the number

of nursing positions, finding people for the vacancies will be more difficult because the competition will be more intense. She characterized it as basic supply and demand.

4:58:35 PM

REPRESENTATIVE SEATON asked if nurses who are able to retire do so when they are eligible, or do nurses tend to stay past retirement.

MS. COSGROVE informed the committee that the division is hoping to, this year, be able to accurately review projected retirements versus actual retirements. She related her "gut-level guess" that most [nurses] retire because they can retire with the full state employment and work elsewhere for a higher hourly wage. She mentioned HB 161, and informed the committee that the state has no retired nurses who have returned. The aforementioned she attributed to the fact that nurses can work anywhere, whereas the expertise of many other public employees is in the public sector. In the way of background data, Ms. Cosgrove informed the committee that the average years of state service for a Nurse 2 are 6.67 years and 1.29 years for entry level nurses.

MS. COSGROVE then turned to the fact that state wages are trailing private sector wages. In fact, the state's entry level [nursing] wages are approximately 7.3 percent below Providence's wage. Furthermore, private sector companies enjoy more flexibility than the state, in terms of offering various bonuses and more steps. Additionally, the state's classification and pay plan isn't established to address fluctuations in the market, rather the state's plan is established to ensure that all state's employees receive like pay for like work. To address the aforementioned, the division has a number of short-term and long-term strategies. In fact, the division is reviewing a policy that would change the way nurses are hired and at what level they would enter the pay scale. The same policy change would allow a hiring manager the ability to offer something to the nurse more quickly than is currently allowed.

5:02:08 PM

MS. COSGROVE explained that the aforementioned policy change would allow hiring managers to advertise and start nurses at a wage as high as \$27.46 an hour, which she characterized as a competitive entry level wage. The division is also creating a proactive recruitment function in order to work with the

operating agencies and nurses will be the first to be reviewed. The aforementioned will allow the division to review recruitment efforts, job fairs, partnering with the university, marketing state employment, and other outreach efforts designed to make the state, as an employer, more visible. Furthermore, the division is designing and implementing both entrance and exit surveys. The division also plans to work with hiring managers to market the state's nondirect salary compensation, such as leave, holiday, and retirement benefits that may be better than the state's primary competitors. The division is looking to partner with representatives from the operating agencies to strategize efforts to rearrange the work. With regard to long-term goals, the division is reviewing the state's current classification and compensation structure in order to determine the legal options that exist to allow market data to influence wage assignments.

5:05:14 PM

REPRESENTATIVE SEATON asked if any of the aforementioned [strategies/goals] require legislative fixes.

MS. COSGROVE answered that at this point most of what was mentioned is what can be done administratively. However, the larger issue of the classification and compensation structure may require legislative action. She assured the committee that if that's the case, the division will approach the legislature.

CHAIR WILSON opined that [the nurse shortage] is a challenge that requires thinking outside of the box. Therefore, she said she was open to any suggestions.

5:07:29 PM

REPRESENTATIVE SEATON asked if the fact that Tier IV will cover occupational disability has been identified as an area of concern within the nursing profession. He also asked if that is being reviewed as one of the recruitment tools under the new legislation.

MS. COSGROVE said she couldn't specify whether that's something that could be highlighted as a marketing tool since the division is still in the process of putting together a recruitment strategy.

5:10:00 PM

ROD BEANY (PH) mentioned that he had spoken with the chair and said that he would talk with the administration regarding an administrative way to address the salary and recruiting problems and to survey the membership regarding their view of HB 271. The committee has already heard a lot of the membership's concern in that the passage of HB 271 would increase overtime costs. With regard to the issue of mandatory overtime, Mr. Beany recalled his time as the director in Utah and related that he had flexibility with the state institutions to keep current with the market. He offered that since his membership doesn't use mandatory overtime very much, he expressed the need to find ways to address competitive salaries and have the ability to make adjustments when necessary in order to have some parity with the private sector. He offered to work with the department on achieving management flexibility.

[HB 271 was held over.]

[5:13:48 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 5:17 p.m.