

**SENATE BILL NO. 28**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

**Introduced: 1/16/07**

**Referred: Health, Education and Social Services, Labor and Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in  
 11 (b) of this section, a nurse in a health care facility may not be required or coerced,  
 12 directly or indirectly, to work over 12 consecutive hours or 80 hours in a 14-day  
 13 period, or to accept an assignment of overtime if, in the judgment of the nurse, the  
 14 overtime would jeopardize patient or employee safety. After working 12 consecutive  
 15 hours, a nurse shall be allowed not less than 12 consecutive hours of off-duty time  
 16 immediately following the end of that work.

17 (b) Subsection (a) of this section does not apply to

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

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

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

25 (4) a nurse voluntarily working over 80 hours in a 14-day period so  
 26 long as the nurse does not work more than 14 consecutive hours without a 12-hour  
 27 break and the work is consistent with professional standards and safe patient care;

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

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

1 (d) In this section, "unforeseen emergency situation" means an unusual,  
2 unpredictable, or unforeseen situation caused by an act of terrorism, disease outbreak,  
3 natural disaster, or other act of God, but does not include a situation in which a health  
4 care facility has reasonable knowledge of increased patient volume or inadequate  
5 staffing because of staff scheduling, vacations, medical leave, or other foreseeable  
6 cause.

7 **Sec. 18.20.410. Prohibition of retaliation.** A health care facility may not  
8 discharge, discipline, threaten, discriminate against, penalize, or file a report with the  
9 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.450  
10 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.450.

11 **Sec. 18.20.420. Enforcement, offenses, and penalties.** (a) The commissioner  
12 shall administer AS 18.20.400 - 18.20.450 and adopt regulations for implementing and  
13 enforcing AS 18.20.400 - 18.20.450.

14 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.450 must be filed  
15 with the commissioner within 30 days after the date of the alleged violation. The  
16 commissioner shall provide a copy of the complaint to the health care facility named  
17 in the filing within three business days after receiving the complaint.

18 (c) If the commissioner finds that a health care facility has knowingly violated  
19 an overtime provision of AS 18.20.400 - 18.20.450, the following civil penalties shall  
20 apply:

21 (1) for a first violation of AS 18.20.400 - 18.20.450, the health care  
22 facility shall receive a reprimand and shall pay a nurse required to work in violation of  
23 AS 18.20.400 - 18.20.450 three times the nurse's hourly compensation for each hour  
24 worked in violation of AS 18.20.400 - 18.20.450;

25 (2) for a second violation of AS 18.20.400 - 18.20.450 within 12  
26 months, the health care facility shall receive a reprimand, shall be assessed a penalty  
27 of \$500, and shall pay a nurse required to work in violation of AS 18.20.400 -  
28 18.20.450 three times the nurse's hourly compensation for each hour worked in  
29 violation of AS 18.20.400 - 18.20.450;

30 (3) for a third violation of AS 18.20.400 - 18.20.450 within 12 months,  
31 the health care facility shall receive a reprimand, shall be assessed a penalty of not less

1 than \$2,500 but not more than \$5,000, and shall pay a nurse required to work in  
 2 violation of AS 18.20.400 - 18.20.450 three times the nurse's hourly compensation for  
 3 each hour worked in violation of AS 18.20.400 - 18.20.450;

4 (4) for each violation of AS 18.20.400 - 18.20.450 after a third  
 5 overtime violation of AS 18.20.400 - 18.20.450 within 12 months, the health care  
 6 facility shall receive a public reprimand, shall be assessed a penalty of not less than  
 7 \$5,000 but not more than \$25,000, and shall pay a nurse required to work in violation  
 8 of AS 18.20.400 - 18.20.450 three times the nurse's hourly compensation for each  
 9 hour worked in violation of AS 18.20.400 - 18.20.450.

10 (d) In this section, "commissioner" means the commissioner of labor and  
 11 workforce development.

12 **Sec. 18.20.430. Report requirements.** A health care facility shall file a  
 13 semiannual report with the section in the Department of Labor and Workforce  
 14 Development responsible for research and analysis. The report for the six-month  
 15 period ending June 30 must be filed before the following August 1, and the report for  
 16 the six-month period ending December 31 must be filed before the following  
 17 February 1. The report must include, for each nurse employed by the health care  
 18 facility or under contract with the health care facility, the number of overtime hours  
 19 worked, the number of overtime hours that were mandatory, the number of overtime  
 20 hours that were voluntary, the number of on-call hours, the number of on-call hours  
 21 that were mandatory, and the number of on-call hours that were voluntary.

22 **Sec. 18.20.450. Definitions.** In AS 18.20.400 - 18.20.450,

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

1                   (2) "knowingly" means for a person to be aware, with respect to  
2                   conduct or to a circumstance described by a provision of this chapter, that the person's  
3                   conduct is of that nature or that the circumstance exists; when knowledge of the  
4                   existence of a particular fact is required, that knowledge is established if a person is  
5                   aware of a substantial probability of its existence, unless the person reasonably  
6                   believes it does not exist;

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

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

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

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

17                  **APPLICABILITY.** The first report required to be filed under AS 18.20.430, enacted in  
18        sec. 2 of this Act, shall be filed before February 1, 2008, for the period July 1, 2007, through  
19        December 31, 2007.

20        \* **Sec. 4.** AS 18.20.430, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect  
21        July 1, 2007.

22        \* **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2008.