

ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

April 5, 2008

9:02 a.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Bob Roses, Vice Chair
Representative Anna Fairclough
Representative Wes Keller
Representative Paul Seaton
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 259

"An Act repealing certain provisions relating to applications for medical assistance coverage; making certain provisions of ch. 96, SLA 2006, retroactive; providing for an effective date by repealing an effective date section in ch. 96, SLA 2006; providing for an effective date for certain sections of ch. 96, SLA 2006; and providing for an effective date."

- MOVED SB 259 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 28(FIN)

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

- MOVED HCS CSSB 28(HES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 259

SHORT TITLE: EFFECTIVE DATE: MEDICAL ASSISTANCE LAWS

SPONSOR(s): RULES BY REQUEST OF LEGISLATIVE COUNCIL

02/04/08	(S)	READ THE FIRST TIME - REFERRALS
02/04/08	(S)	STA, FIN
03/18/08	(S)	STA AT 9:00 AM BELTZ 211

03/18/08 (S) Scheduled But Not Heard
 03/19/08 (S) STA RPT 1DP 3NR
 03/19/08 (S) DP: GREEN
 03/19/08 (S) NR: MCGUIRE, FRENCH, STEVENS
 03/19/08 (S) STA AT 9:30 AM BELTZ 211
 03/19/08 (S) -- Continued from 03/18/08 --
 03/24/08 (S) FIN RPT 4DP
 03/24/08 (S) DP: STEDMAN, ELTON, THOMAS, DYSON
 03/24/08 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/24/08 (S) Moved SB 259 Out of Committee
 03/24/08 (S) MINUTE(FIN)
 03/26/08 (S) TRANSMITTED TO (H)
 03/26/08 (S) VERSION: SB 259
 03/27/08 (H) READ THE FIRST TIME - REFERRALS
 03/27/08 (H) HES, FIN
 04/05/08 (H) HES RPT 4DP 3NR
 04/05/08 (H) DP: CISSNA, SEATON, ROSES, WILSON
 04/05/08 (H) NR: KELLER, FAIRCLOUGH, GARDNER
 04/05/08 (H) HES AT 9:00 AM CAPITOL 106

BILL: SB 28

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES
 SPONSOR(s): SENATOR(s) DAVIS

01/16/07 (S) PREFILE RELEASED 1/5/07
 01/16/07 (S) READ THE FIRST TIME - REFERRALS
 01/16/07 (S) HES, L&C, FIN
 04/04/07 (S) HES AT 2:45 PM BUTROVICH 205
 04/04/07 (S) Heard & Held
 04/04/07 (S) MINUTE(HES)
 04/16/07 (S) HES AT 1:30 PM BELTZ 211
 04/16/07 (S) Moved CSSB 28(HES) Out of Committee
 04/16/07 (S) MINUTE(HES)
 04/18/07 (S) HES RPT CS 2DP 1NR 2AM SAME TITLE
 04/18/07 (S) DP: DAVIS, ELTON
 04/18/07 (S) NR: THOMAS
 04/18/07 (S) AM: DYSON, COWDERY
 04/24/07 (S) L&C AT 1:30 PM BELTZ 211
 04/24/07 (S) <Bill Hearing Postponed until Thursday>
 04/26/07 (S) L&C AT 1:30 PM BELTZ 211
 04/26/07 (S) Heard & Held
 04/26/07 (S) MINUTE(L&C)
 01/15/08 (S) L&C AT 1:30 PM BELTZ 211
 01/15/08 (S) -- MEETING CANCELED --
 01/17/08 (S) L&C AT 1:30 PM BELTZ 211
 01/17/08 (S) -- MEETING CANCELED --
 01/22/08 (S) L&C AT 1:30 PM BELTZ 211

01/22/08 (S) Moved CSSB 28(L&C) Out of Committee
 01/22/08 (S) MINUTE(L&C)
 01/23/08 (S) L&C RPT CS 2DP 3NR SAME TITLE
 01/23/08 (S) DP: ELLIS, DAVIS
 01/23/08 (S) NR: BUNDE, STEVENS, HOFFMAN
 03/04/08 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/04/08 (S) Heard & Held
 03/04/08 (S) MINUTE(FIN)
 03/21/08 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/21/08 (S) Heard & Held
 03/21/08 (S) MINUTE(FIN)
 03/25/08 (S) FIN RPT CS 2DP 4NR SAME TITLE
 03/25/08 (S) DP: ELTON, THOMAS
 03/25/08 (S) NR: HOFFMAN, STEDMAN, DYSON, OLSON
 03/25/08 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/25/08 (S) Moved CSSB 28(FIN) Out of Committee
 03/25/08 (S) MINUTE(FIN)
 04/01/08 (S) TRANSMITTED TO (H)
 04/01/08 (S) VERSION: CSSB 28(FIN)
 04/01/08 (H) HES AT 3:00 PM CAPITOL 106
 04/01/08 (H) <Bill Hearing Rescheduled to 04/05/08>
 04/02/08 (H) READ THE FIRST TIME - REFERRALS
 04/02/08 (H) HES, FIN
 04/05/08 (H) HES AT 9:00 AM CAPITOL 106

WITNESS REGISTER

KATHRYN KURTZ, Assistant Revisor
 Legislative Legal Counsel
 Legislative Legal and Research Services
 Legislative Affairs Agency
 Juneau, Alaska

POSITION STATEMENT: Testified on SB 259.

JON SHERWOOD
 Office of Program Review
 Department of Health and Social Services (DHSS)
 Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on SB 259.

SENATOR BETTYE DAVIS
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of SB 28.

TOM OBERMEYER, Staff

to Senator Bettye Davis
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 28, Version W, on behalf of
Senator Davis, prime sponsor.

ROD BETIT, President
Alaska State Hospital and Nursing Home Association (ASHNHA)
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

TOM RENKES, RN; MS
Executive Director
Labor Program
Alaska Nurses Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 28.

BARBARA HUFF, Director
Governmental and Legislative Affairs
Teamsters Local 959
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 28.

RYAN SMITH, Chief Executive Officer
Central Peninsula General Hospital
Soldotna, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

PATRICIA REYNAGA, Registered Nurse
Providence Hospital
Anchorage, Alaska

POSITION STATEMENT: Speaking as an individual, testified in
opposition to SB 28.

PATTY ARTHUR, Licensed Practical Nurse
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

PAM READ, Psychiatric Nurse
North Star Hospital
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

PAT HIGGINS, Human Resources Director
North Star Hospital
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

ELIZABETH CHENEY, Representative
Alaska Native Health Board; Alaska Native Tribal Health
Consortium
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

TINA GONZALES, Registered Nurse
Valdez, Alaska

POSITION STATEMENT: Speaking as an individual, testified during
the hearing on SB 28.

SHARA SUTHERLIN, Chief Nurse Executive
Providence Medical Center
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

SCOTT JUNGWIRTH, Chief Human Resources Officer
Providence Health & Services, Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

MARY STACKHOUSE, Neonatal Intensive Care Nurse
Providence Hospital
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on SB 28.

NORMAN STEVENS, Chief Executive Officer
Mat-Su Regional Medical Center
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

PAUL MORDINI, Registered Nurse
Nursing Supervisor
Alaska Psychiatric Institute
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 28.

JUDY EVANS, Registered and Certified Nurse
Alaska Regional Hospital
Anchorage, Alaska

POSITION STATEMENT: Speaking as an individual, testified in
support of SB 28.

DEB DRAKE, Recovery Room Nurse
Alaska Regional Hospital

Anchorage, Alaska

POSITION STATEMENT: Speaking as an individual, testified in support for SB 28.

STACY ALLEN, Registered Nurse; Business Agent

Laborers Local 341

Anchorage, Alaska

POSITION STATEMENT: Testified in support for SB 28.

ELIZABETH WOODWARD, Chief Nursing Officer

Fairbanks Memorial Hospital

Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

MICHAEL ZIELASKIEWICZ, Chief Nursing Officer

Mat-Su Regional Medical Center

Palmer, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

REBECCA BOLLING, Registered Nurse

Ketchikan General Hospital

Ketchikan, Alaska

POSITION STATEMENT: Testified in support for SB 28.

JACK DAVIS, Human Resources Director

Bristol Bay Area Health Corporation

Dillingham, Alaska

POSITION STATEMENT: Testified in opposition to SB 28.

PAT SENNER

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 28.

NANCY DAVIS, Registered Nurse

Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 28.

LAUREE MORTON

Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 28.

GREY MITCHELL, Director

Central Office

Division of Labor Standards & Safety

Department of Labor & Workforce Development

Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on SB 28.

ACTION NARRATIVE

CHAIR WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [9:02:51 AM](#). Representatives Wilson, Fairclough, Keller, Seaton, Gardner, and Roses were present at the call to order. Representative Cissna arrived as the meeting was in progress.

SB 259-EFFECTIVE DATE: MEDICAL ASSISTANCE LAWS

[9:03:46 AM](#)

CHAIR WILSON announced that the first order of business would be SENATE BILL NO. 259, "An Act repealing certain provisions relating to applications for medical assistance coverage; making certain provisions of ch. 96, SLA 2006, retroactive; providing for an effective date by repealing an effective date section in ch. 96, SLA 2006; providing for an effective date for certain sections of ch. 96, SLA 2006; and providing for an effective date."

[9:04:35 AM](#)

KATHRYN KURTZ, Assistant Revisor, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, explained that SB 259 was a special revisor's bill that was necessary to change the wording of an effective date clause pertaining to the Medical Assistance Act of 2006. Ms. Kurtz stated that the revision provided by the bill was supported by the Department of Law (DOL) and the Department of Health & Social Services (DHSS).

[9:05:43 AM](#)

CHAIR WILSON opined that the memorandum in the committee packet from Ms. Kurtz explained the situation well.

[9:05:52 AM](#)

REPRESENTATIVE FAIRCLOUGH referred to the memorandum from Ms. Kurtz, dated March 27, 2008, and asked for an explanation of the amendments that were disapproved by the federal government.

[9:06:08 AM](#)

MS. KURTZ explained that the disapproved provisions were repealed by the bill.

[9:06:34 AM](#)

JON SHERWOOD, Office of Program Review, Department of Health and Social Services (DHSS), further explained that the disapprovals were for Medicare state plan amendments. One amendment imposed a \$500,000 asset limit on private residences and one changed the authority of adults to apply for Medicare on behalf of children under 18 years of age.

[9:07:35 AM](#)

REPRESENTATIVE GARDNER noted that SB 259 repeals statutory language, in AS 47.07.020 (J), dealing with who can apply for Medicare for a child under the age of 18. She asked how the determination would be made after the repeal.

[9:08:02 AM](#)

MR. SHERWOOD answered that the existing policy remains in effect, which states that any responsible person can apply, on behalf of a child, if the child is living at home. The parent would have to cooperate in the application, but currently if a child is in a situation where their parent can not apply, the application will be accepted from another responsible party.

[9:08:57 AM](#)

REPRESENTATIVE GARDNER ascertained that "we're not leaving a hole."

MR. SHERWOOD indicated not.

[9:09:09 AM](#)

CHAIR WILSON recalled a previous policy change regarding the adoption of a person over the age of 18. She asked if this bill affects that statute.

MR. SHERWOOD said this bill does not affect the adoption of adult children.

[9:09:58 AM](#)

REPRESENTATIVE ROSES moved to report SB 259 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 259 was reported from the House Health, Education and Social Services Standing Committee.

SB 28-LIMIT OVERTIME FOR REGISTERED NURSES

[9:10:29 AM](#)

CHAIR WILSON announced that the final order of business would be CS FOR SENATE BILL NO. 28(FIN), "An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

[9:11:11 AM](#)

SENATOR BETTYE DAVIS, Alaska State Legislature, sponsor, deferred to her staff member for the introduction of the bill, and said that she would be available for questions.

[9:11:37 AM](#)

TOM OBERMEYER, Staff to Senator Bettye Davis, Alaska State Legislature, introduced SB 28, Version W, paraphrasing from the sponsor statement, which read as follows [original punctuation provided]:

SB 28, also known as "The Alaska Safe Nursing and Patient Care Act," modeled somewhat after H.R. 791, 109th Congress, assists Alaska registered and licensed practical nurses from being forced to work mandatory overtime, i.e., compulsory as opposed to voluntary work in excess of an agreed to, predetermined, regularly scheduled shift, and it protects patients from the dangers caused by overworked nurses. It was reported at the International Conference on Occupational Stress and Health, March 2, 2006, that work shifts longer than twelve hours per day endanger patient safety due to fatigue, causing reduced capability of nurses to notice and correct errors. It found that 27% of nurses in full-time hospitals and nursing homes worked more than 13 consecutive hours one or more times per week. The January, 2008, report by the Alaska Nurses Association titled "Mandatory Overtime Legislation: A positive approach to improved patient care for the State of Alaska," found that a

majority of the staff nurses present at the Alaska Statewide Nurses Conference held in Anchorage October, 2007, had reported that they had been asked to work overtime in the past three months. Many nurses indicated that they had to take mandatory call. In many cases the call-back occurred within a few hours of completing a regular 12-hour shift, resulting in working more than 14 hours within a 24-hour period. This bill directly addresses this problem.

This bill has been a work in process over the last two years with a number of changes to accommodate the unique staffing problems at various health care facilities, while paying attention to patient care and nursing work-hours. While most health care facilities provide incentives for on-call pay and on-call return-to-work status, the use of mandatory overtime continues to remain a way to staff facilities across the state without hiring more RNs. Faced with severe nursing shortages in Alaska and nationwide, Alaska needs to encourage and support nurses to enter and stay in the profession. The average age of an RN in the US and in Alaska is mid-forties. The increased numbers of nurses trained at the University of Alaska still falls short of the need, especially in critical care areas and highly-trained specialties.

Nurses have always been afraid to object to requests by employers for excessive voluntary or mandatory overtime or to testify on behalf of this bill for fear of direct or indirect retaliation. This bill protects nurses from discrimination and retaliation by employers and requires semi-annual reporting of individual nursing hours to the state in order to identify abuses. It provides state investigatory and enforcement mechanisms to encourage employers to comply, especially in situations of knowing violations.

This bill attempts to balance the often opposing views and objectives of health care facilities and nurses concerning mandatory overtime, but it cannot resolve all nurse staffing and scheduling problems, particularly with shortages in critical areas. Based on already difficult working conditions made more onerous by regular mandatory overtime, this bill should provide considerable relief to Alaska's nurses who often feel overworked, underpaid, undervalued, and

with little control over their time at home. It should improve the lives of nurses and their families and enhance the quality of patient care in communities across the state and let nurses decide if they can provide their same quality care while working overtime. It provides a number of exceptions in the use of mandatory overtime for nurses in situations such as official state of emergency, medical airlift, and other listed exceptions. Finally, this bill allows nurses to work overtime voluntarily so long as the work is consistent with professional standards and safe patient care and does not exceed 14 consecutive hours.

[9:15:42 AM](#)

MR. OBERMEYER added that there is Alaskan legislation that limits the period of employment in underground mines to no more than 10 hours in a 24-hour day. This problem is not unique to Alaska, but has become a pervasive concern in the nursing profession. Excessive overtime, instead of hiring more staff, leads to burnout and can cause a decline in the quality of care. He then pointed out that one of the provisions in the bill requires individuals to report their work schedules. This detailed information would allow the state to review actual schedules and should aid hospitals in their staffing efforts. Mr. Obermeyer concluded that mandatory overtime has become a common practice as a cost saving measure and has resulted in hiring traveling nurses, part-time workers, or contract workers, instead of training and hiring full-time nurses at the necessary staffing levels.

[9:18:54 AM](#)

REPRESENTATIVE ROSES asked how many nurses this legislation would affect.

MR. OBERMEYER answered that about 4,500 licensed nurses are employed in the state, and one-half are under contract.

[9:19:36 AM](#)

REPRESENTATIVE ROSES noted that there has not been an outcry from many nurses about this situation. He questioned whether the [mandatory overtime] is a common practice.

[9:20:13 AM](#)

MR. OBERMEYER observed that it was not in a nurse's nature to complain. He opined that nurses work for "take it or leave it" contracts, and employers have the power to enforce mandatory overtime without adequate rest between shifts; in fact, there can be indirect retaliation for complaints. Hospitals want to have a good "bottom line" and the nurses are subject to the whims of the organization.

[9:22:28 AM](#)

SENATOR DAVIS informed the committee that there have been many witnesses who have testified in support of this bill; however, many feel as though they can not testify. Further, the nurse's associations are supportive of the bill.

[9:23:04 AM](#)

REPRESENTATIVE ROSES acknowledged the presentation of other testimony during previous hearings.

[9:23:14 AM](#)

REPRESENTATIVE KELLER referred to page 2, line 11 and 12, of the bill that prohibits "indirect coercion." He asked how to balance voluntary overtime against indirect coercion.

[9:23:52 AM](#)

MR. OBERMEYER explained that indirect coercion can be the re-assignment of shifts or mandatory on-call duty. In fact, many nurses will feel compelled to volunteer even when they are exhausted. He referred to documentation in the committee packet from the American Medical Association that presents statistics on the increased risk to patients after a nurse works beyond a 12 hour shift.

[9:25:41 AM](#)

REPRESENTATIVE KELLER gave an example of a nurse and his or her employer who disagree about whether overtime is voluntary.

[9:26:18 AM](#)

MR. OBERMEYER opined that the bill includes enforcement mechanisms to handle violations through the commissioner's

office. Furthermore, the expectations of the employer are well documented and disputes should be kept to a minimum.

[9:27:20 AM](#)

REPRESENTATIVE FAIRCLOUGH referred to page 2, line 15, and asked whether a hospital is limited to scheduling nurses to work a 40 hour work week with zero overtime.

[9:27:39 AM](#)

MR. OBERMEYER read: "to work beyond 80 hours in a 14-day period" and explained that this was a standard work week, and the language following allows a nurse to accept overtime voluntarily. He stressed that the bill was flexible enough to allow for exceptions, but would still limit overtime in order to provide 10 hours off between shifts.

[9:28:46 AM](#)

REPRESENTATIVE FAIRCLOUGH opined that, according to the language in the bill, a nurse does not have to work over eight hours a day. Furthermore, page 3, lines 13 through 15, are in conflict with the language on page 2. She expressed her support of the ten hour break between shifts; however, the bill appears to give the nurse the choice to work an eight hour day, which may put the employer at a disadvantage.

[9:30:09 AM](#)

MR. OBERMEYER remarked:

I think you can see, from what I've said in the past, that this voluntary business tends to largely be, a, encouraged, to the point of being mandatory on the part of the employers. ... It does give a relief valve to the nurses who can't work that, and to say that it's impairing the ability of the ... employer, because we've asked that these people have adequate rest, I think it goes in direct conflict with what the intent of the bill is.

[9:31:11 AM](#)

CHAIR WILSON interjected her personal nursing experience. She noted that many states are implementing this type of legislation to support the nursing profession.

[9:33:52 AM](#)

REPRESENTATIVE FAIRCLOUGH suggested that a nurse could cite this legislation and leave an operating room after eight hours. She questioned whether a shorter shift would always be possible.

[9:34:59 AM](#)

CHAIR WILSON observed that in certain situations, such as an operation, there may be other options for the nursing staff.

[9:35:53 AM](#)

REPRESENTATIVE FAIRCLOUGH re-stated the language on page 2, line 15, of the bill.

[9:36:01 AM](#)

REPRESENTATIVE SEATON asked whether the intent was to say that the nursing profession was to have the same anticipated 40 hour work week as other professions, but still allow flexibility within a certain time period.

[9:37:15 AM](#)

MR. OBERMEYER acknowledged that the 80 hour work week was the traditional work week; however, nurses often work three days of twelve hour shifts. This bill would not change shifts, but requires hospitals to recognize that, after 14 hours of work, a nurse needs to have 10 hours of rest. Using mandatory overtime as a staffing tool versus emergency coverage creates undue pressure on the nurses and contributes to the nursing shortage.

[9:39:06 AM](#)

REPRESENTATIVE CISSNA understood that this bill provides for necessary nursing coverage during extreme emergencies while providing protection for nurses working under normal conditions.

[9:40:01 AM](#)

MR. OBERMEYER indicated yes.

[9:40:05 AM](#)

REPRESENTATIVE GARDNER pointed out that the language on page 3, beginning on line 1, allows for overtime status because of an unforeseen emergency situation. She supported the bill's focus against the practice of using mandatory overtime as a staffing tool.

[9:41:00 AM](#)

REPRESENTATIVE FAIRCLOUGH asked whether a hospital schedule is written on a weekly, bi-weekly or monthly basis.

[9:41:26 AM](#)

CHAIR WILSON responded that there are primarily monthly schedules; however, within the monthly schedules there will be 8, 10 and 12 hour shift schedules.

[9:43:18 AM](#)

REPRESENTATIVE FAIRCLOUGH directed the committee's attention to page 4, and remarked:

... they can take their schedule and use it against their employer every time the emergency arises. And they're going to respond to the emergency because that's the type of people they are, they're caregivers. ... But we're giving them a very large bat, is all I'm putting on the record.

REPRESENTATIVE FAIRCLOUGH read the violation provisions of the bill and expressed her concern.

[9:44:56 AM](#)

SENATOR DAVIS suggested that a hospital association representative or nurse should address this issue.

[9:45:19 AM](#)

REPRESENTATIVE SEATON asked whether the question would be solved by specifying one hundred and sixty hours in four weeks, or whether the limit on the hospitals was the problem.

[9:45:54 AM](#)

REPRESENTATIVE FAIRCLOUGH surmised that a shorter week gives less liability; in fact, an expansion to the two week period

invites more modification to the schedule and thereby, more violation.

[9:46:58 AM](#)

REPRESENTATIVE SEATON asked whether, if a nurse volunteers to work 60 hours in one week and then works more than 20 hours the next week, there is a violation. Or, whether the violation occurs when the nurse is scheduled to work those hours.

[9:47:51 AM](#)

MR. OBERMEYER read from page 3, lines 13 through 15. He stressed that the bill does not say that they can not work longer hours, but that they would need to have a 10 hour rest after 14 hours.

[9:49:39 AM](#)

REPRESENTATIVE CISSNA requested that a human resource administrator address the staffing questions.

[9:50:07 AM](#)

REPRESENTATIVE FAIRCLOUGH maintained her concern, and stated that she would not hold up the bill.

[9:51:12 AM](#)

CHAIR WILSON agreed that hospital staffing schedules are not flexible.

REPRESENTATIVE FAIRCLOUGH suggested that passage of the bill may force the hiring of more nurses.

[9:51:50 AM](#)

REPRESENTATIVE GARDNER opined that the hospital schedules may become more flexible based on this legislation.

[9:53:05 AM](#)

ROD BETIT, President, Alaska State Hospital and Nursing Home Association (ASHNHA), directed the committee's attention to the voluntary reports of the use of mandatory overtime at state facilities that were provided to the committee. He stated that ASHNHA has collected facts over the last four years to support

that mandatory overtime is not being used in a significant way in state facilities, nor is it used as a staffing tool. The exception to this would be the Alaska Psychiatric Institute (API), that does continue to have a staffing issue. He referred to the ASHNHA position paper and surveys and described the statistics reported. Mr. Betit stated neither ASHNHA nor the Department of Labor have received grievances due to mandatory overtime and that he is at a loss for why this legislation is offered. He opined that a greater problem pertains to nurses who must remain on-call and this bill, on page 3, line 8 and line 9, exempts on-call time from the provisions of the bill. He then reminded the committee that hospitals are working to lessen the nursing shortage by contributing to nursing education programs through the University of Alaska; in fact, 200 nurses are graduated each year, and 93 percent are placed in Alaska. He turned to the reporting requirement in the bill and noted that no other state has such a burdensome reporting requirement of nurses. Furthermore, he pointed out that ASHNHA facilities are monitored by independent, state, and federal reviewers of patient safety, and there is nothing to substantiate that nurses working overtime cause injuries to patients. He stated that bargaining units and unions are very effective in bringing forth work scheduling issues that are presented by employees. Mr. Betit concluded that the bill would affect the balance that exists between employers and employees, that only 13 other states have legislation governing mandatory overtime, and he expressed his concern for the implications of the precedent set by the bill

[10:05:28 AM](#)

CHAIR WILSON asked, "If none of this is happening, ... then what is the fear? ... Why does this bother you so much?"

[10:05:49 AM](#)

MR. BETIT explained that the bill moves into an area that prescribes the relationship between management and health care employees. Until there is evidence that facilities are abusing employees or patients, the legislature should not be installing safeguards.

[10:07:08 AM](#)

REPRESENTATIVE CISSNA suggested that many times people do not disclose information, nor may it show up in a survey. Responses to an employer survey are often skewed by participants, and she

suggested that other issues, such as retention, turnover, and the health of employees, are better indicators of working conditions. Her experience reveals that hospital employees would not bring these issues to the employer.

[10:09:54 AM](#)

REPRESENTATIVE KELLER asked whether health care facilities complete exit surveys when nurses resign.

[10:10:27 AM](#)

MR. BETIT responded that some do.

[10:11:04 AM](#)

CHAIR WILSON asked whether staff nurses were involved in the facility surveys.

[10:11:17 AM](#)

MR. BETIT answered that his office submitted the request for information through the Chief Executive Officer of each facility.

[10:11:36 AM](#)

REPRESENTATIVE FAIRCLOUGH stated that what was being presented was inconsistent with information from hospitals that has been solicited directly by her office. She asked if Mr. Betit would agree with a Health Affairs study that there are three times more errors by nurses working over 12.5 hours.

[10:12:25 AM](#)

MR. BETIT said that he would accept the finding by Health Affairs.

[10:12:53 AM](#)

REPRESENTATIVE FAIRCLOUGH offered to sign a confidentiality agreement in order to view hospital internal incident reports and determine whether or not incidents increase during a nurse's overtime shift. She relayed the questions and responses her office solicited: To the question of whether nurses work overtime immediately after a 12 hour shift, hospitals responded,

"rarely" and "on a volunteer basis." Representative Fairclough than requested additional details on the percentage of nurses who work eight, ten, and twelve hour shifts at each facility. Returning to the questions she asked of hospitals, she remarked:

I asked for, "how frequent people work, ... over the 14 hour shifts" and I'd like to understand how each hospital interprets a mandatory overtime versus mandatory on-call because I think it affects the quality of care and, truthfully, for me, the benefit is, if a nurse is willing to take the mandatory on-call ... there is a balance there in revenue that's coming to the nurse that she's trying to protect versus also protecting her schedule. ... So I just want to see the balance there. ... I've been told that your nurse vacancy rate is not what you provided the union. ... The rates, again on the chart provided here, were different than the rates that you gave to the bargaining unit that is representing the nursing association. ... I'd like to understand, from some of the hospitals, why they continue to use temporary nurses and traveling nurses, and I understand if we're reaching out to rural Alaska or other communities, why you might want to use that, but understanding the difference and how the hospitals interpret those definitions would be helpful to me.

[10:16:36 AM](#)

MR. BETIT responded that the information on how many nurses work eight-, ten-, or twelve-hour shifts would be provided. In response to the question of inconsistencies, he stated that the survey information was returned directly from each hospital.

[10:17:12 AM](#)

REPRESENTATIVE FAIRCLOUGH clarified that her question to the hospitals regarding mandatory overtime included mandatory on-call time and the ASHNHA survey was unclear on this question, thus hospitals responded differently.

[10:17:56 AM](#)

MR. BETIT confirmed that the ASHNHA survey did not intend to include mandatory on-call time.

[10:18:03 AM](#)

REPRESENTATIVE GARDNER asked Mr. Betit to clarify his statement that the sponsors of the bill have presented "allegations, assumptions, and suppositions." Further, she asked for hard data supporting his statement that 93 percent of the nursing graduates are being hired in the state. She reviewed ASHNHA's concerns about the reporting requirement and penalties and asked whether the removal of these two provisions would allay its opposition.

[10:20:15 AM](#)

MR. BETIT affirmed that the allegations he referred to are that hospitals are intimidating nurses, that patients are being seriously harmed by tired nurses, and that there is damage being done to health care in the state.

[10:20:51 AM](#)

REPRESENTATIVE GARDNER pointed out that the statements were drawn from national studies that reported a higher level of mistakes made by exhausted nurses.

MR. BETIT apologized.

[10:21:39 AM](#)

REPRESENTATIVE GARDNER stated her concern that if there are nurses who are unable to maintain competency due to overwork, it would be derelict of the committee's duties to not address the situation. She stressed her support for the core of the bill, which is to limit overtime, in order to help in the retention and job satisfaction of nurses, and in patient safety.

[10:22:44 AM](#)

REPRESENTATIVE SEATON recalled testimony two years ago about a suicide at API and a situation where a nurse left her position because of concern for her license. He pointed out that attempts to address problems at API by increasing the level of compensation have not made a difference. He directed the committee's attention to the ASHNHA survey and remarked:

That facility that uses the most mandatory overtime doesn't require any on-call. Any yet, I look at the other ones, that have zero mandatory overtime and have required on-call, and I guess, I'm trying to figure

out if in a contract, or in an agreement, the nurses are required to have on-call, and we don't have the information of how many of those on-calls are required to take place right after previous shift[s], and how that differentiates from mandatory overtime. ... If, in fact, ... in some facilities is having mandatory on-call and using that as a scheduling tool, ... I'm wondering whether we really have the same situation taking place in two different labels.

[10:26:15 AM](#)

REPRESENTATIVE SEATON further noted that South Peninsula Hospital was not a Critical Access Hospital as indicated on the ASHNSHA survey and asked for clarification of the on-call policy statistics.

[10:27:16 AM](#)

MR. BETIT responded that South Peninsula Hospital was in the process of being certified as a Critical Access Hospital. He further explained that his intent was to determine the number of times each nurse was on-call per month. He acknowledged that more detailed information could be requested.

[10:29:42 AM](#)

REPRESENTATIVE SEATON stated that the majority of hospitals have a concern with the reporting requirement proposed by the bill. He opined that the hospital's existing personnel offices should have information on overtime and asked why this report was a burden.

[10:31:12 AM](#)

MR. BETIT said that the estimated cost of producing these reports was unknown to him.

[10:31:52 AM](#)

REPRESENTATIVE ROSES asked whether the use of mandatory overtime is a standard practice at any of the facilities.

[10:32:29 AM](#)

MR. BETIT affirmed its use at API and at Bartlett Regional Hospital.

[10:32:42 AM](#)

REPRESENTATIVE ROSES further asked about the existence of "an adhesion contract."

MR. BETIT said that he was not familiar with that term.

[10:33:03 AM](#)

REPRESENTATIVE ROSES referred to page 2, line 11, and expressed concern for how coercion could be clearly defined. He provided a personal example of possible coercion that illustrated the difficulty of the definition. He then asked Mr. Betit to estimate the cost of malpractice or liability insurance to hospitals.

[10:35:19 AM](#)

MR. BETIT estimated that insurance is a significant growing cost to hospitals.

[10:35:31 AM](#)

REPRESENTATIVE ROSES recalled that insurance renewals require the filing of incident reports.

[10:36:05 AM](#)

MR. BETIT agreed that adverse patient incidents are cataloged. In further response, he said that details of incident reports are not released by insurance companies in order to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

[10:36:17 AM](#)

REPRESENTATIVE ROSES assumed that liability insurance companies have data on adverse incidents in order to determine rates. It would be in everyone's best interest to respond to the safety data on overtime hours and lower the cost of insurance.

[10:37:51 AM](#)

MR. BETTIT relayed that ASHNHA members have stated that the 14 hour limit is reasonable, 12 hour shifts are basic, and other shifts can be considered. Furthermore, there is a professional camaraderie in health care facilities that enables the staff to work as a team. He provided scenarios of voluntary versus mandatory overtime and concluded that the bill leaves this point open to conjecture.

REPRESENTATIVE ROSES stated the difficulty in balancing bargaining unit rights with intervention by legislation to protect patient's safety.

[10:40:56 AM](#)

CHAIR WILSON announced her intent to hear from the nurse's association, a union representative, and from the API, prior to a two-hour recess.

[10:41:49 AM](#)

REPRESENTATIVE GARDNER stated her questions, to be addressed in her absence: How often nurses work overtime immediately following a 12-hour shift; how often nurses work more than 14 consecutive hours; how often nurses are called back following a 12-hour shift; and whether nurses work more than 4 12-hour shifts on consecutive days.

[10:42:46 AM](#)

CHAIR WILSON corrected her statement about the transfer of patient information to an incoming nurse.

[10:43:18 AM](#)

TOM RENKES, RN; MS, Executive Director, Labor Program, Alaska Nurses Association, informed the committee of his many years of professional experience as a registered nurse, a health care educator, a health care Chief Executive Office, a staff nurse, a hospital manager and administrator, and a consultant to state government and health care institutions. He said that he has personally spoken with nurses in Fairbanks, Valdez, Anchorage, Wrangell, Ketchikan, Juneau, Soldotna, and Wasilla and all of those he interviewed confirmed that on-call and mandatory overtime was a problem for them. He addressed the question of the percentage of graduating nurses that stay in Alaska and clarified that 93 percent stay for two years as required to get a sign-on bonus, after that the percentage drops. He opined

that SB 28 was about patient safety and the nurse's ability to not work excessive hours. The Alaska Nurses Association supports trying to retain nurses in Alaska, and in the other states that have passed similar legislation, there has been nursing job growth. He related that nurses leave the work force due to retirement and the work environment; in fact, of 9,000 licensed registered nurses in Alaska, less than 4,000 work in acute care settings. Furthermore, this issue can not be handled by union labor contracts because all nurses do not work in unionized facilities. Mr. Renkes then pointed out that the regulatory reporting required by SB 28 carries no financial burden. In response to an earlier comment, he stated that similar legislation in other states does include requirements for regulatory reporting.

[10:47:52 AM](#)

MR. RENKES continued to explain that documentation has been provided that health care institutions and governments save money on better community health care with a well rested and well staffed workforce. He provided statistics supporting the reduction of illnesses. Mr. Renkes concluded that SB 28 is about retaining nurses in the workforce, spending less health care dollars on preventable illnesses, spending less money on traveling and temporary nurses, and making the state competitive for nursing jobs and career pathways.

REPRESENTATIVE ROSES asked for details of the reasons that nurses leave due to the working environment.

MR. RENKES answered that the information comes from the Board of Nursing and is not broken down into specific problems.

REPRESENTATIVE ROSES stressed the importance of doing exit surveys that provide greater details.

[10:50:47 AM](#)

MR. RENKES pointed out that there have been 300 nurses questioned throughout the state and 100 percent documented mandatory overtime as a part of their complaint. He assured the committee that mandatory overtime was the "number one issue."

[10:51:13 AM](#)

REPRESENTATIVE FAIRCLOUGH asked how many nurses there are in Alaska.

MR. RENKES answered that there are 9,000 licensed and 6,000 reside in Alaska.

REPRESENTATIVE FAIRCLOUGH further asked how many are represented by union.

MR. RENKES said about 50 percent.

[10:51:51 AM](#)

REPRESENTATIVE FAIRCLOUGH then asked how was it consistent that mandatory overtime was an issue, but mandatory on-call was not.

MR. RENKES observed that both are issues.

[10:52:07 AM](#)

REPRESENTATIVE GARDNER said, "Every nurse you talked to said mandatory overtime was a problem?"

MR. RENKES indicated yes; in fact, the nurses would not give their last names. He then described several situations.

[10:53:22 AM](#)

BARBARA HUFF, Director, Governmental and Legislative Affairs, Teamsters Local 959, informed the committee that Local 959 represents all of the health care employees at South Peninsula Hospital, as well as those at Kodiak Island. She stated her support for SB 28, for the benefit of nurses and health care workers in general. She acknowledged that mandatory overtime and on-call are major contract negotiation issues with nurses and nursing assistants in acute care and on the floor in general. Through collective bargaining, provisions have been instituted, even for employees that work 12 hour shifts, to allow flexible work hours within an 80 hour work period. In addition, the collective bargaining agreement allows those who prefer to be assigned alternative shifts. She opined that any health care facility, large or small, needs to have this flexibility in scheduling. The camaraderie of the staff, as previously discussed, does minimize overtime situations. However, she pointed out that being on-call is restrictive for the employee, and needs to be considered as such. It requires the employee to be within a twenty five minute response time of the facility and severely limits family activities. Contract negotiations

appropriately deal with these issues by gathering information and data to properly address the situation. Ms. Huff assured the committee that reports of overtime and on-call hours, that the committee is requesting, are available through the union, as this information is necessary for the bargaining unit. For the facilities that are not organized, this information may not exist, she pointed out. Contract language is crafted by addressing the issues directly, she said, and explained the process of "interest based" bargaining. She continued, relating an anecdotal situation that occurred recently at the Homer facility, during her visit. A clear contract, at a union represented facility, is a distinct advantage over employees without representation. Ms. Huff concluded that SB 28 would be of assistance to those employees who are not similarly organized.

[10:59:34 AM](#)

REPRESENTATIVE FAIRCLOUGH asked:

Inside of the contracts that you negotiate, if you're negotiating flexible schedules where the nurses are wanting to do 3 12's ... they do that on a case-by-case basis, with the supervisor inside of a facility. I want to know, on a flexible schedule, is it after 8 hours overtime, or is that the trade-off for the flexible schedule.

[11:00:10 AM](#)

MS. HUFF responded that if they are working a five [day] eight [hour] schedule, then anything over eight hours would be overtime.

[11:00:29 AM](#)

CHAIR WILSON announced that the meeting was recessed at 11:00 a.m. to a call of the chair.

CHAIR WILSON called the meeting back to order at 12:40 p.m. Present at the call back to order were Representatives Fairclough, Keller, Gardner, Roses, and Wilson. Representatives Seaton and Cissna arrived as the meeting was in progress.

[12:41:47 PM](#)

RYAN SMITH, Chief Executive Officer, Central Peninsula General Hospital, agreed with the legislature that it is essential for nurses and licensed practical nurses to be available for patients; however, quality patient care is jeopardized by nurses who work unnecessarily long hours. In addition, nurses need improved work environments to stay on the job. He questioned the fact that the bill was written for registered nurses only and does not cover physicians and other health care providers, for example, Certified Registered Nurse Anesthesia (CRNA) nurses. He cautioned that there are holes in the bill and did not see that it would be possible to allow 10 hours of rest between shifts for nurses working in specialty areas.

[12:45:16 PM](#)

REPRESENTATIVE GARDNER asked, "... at what point do you think an individual should not be required to work additional hours?"

[12:45:28 PM](#)

MR. SMITH gave an example of two surgeons who provided care to a community for forty-eight hours straight. He said that he did not have an answer to her question.

[12:46:10 PM](#)

REPRESENTATIVE GARDNER asked whether Mr. Smith was aware of the studies that indicate a decrease in competence after many hours of working time.

MR. SMITH said yes. He cited studies that have been done at Central Peninsula General Hospital.

[12:46:55 PM](#)

REPRESENTATIVE GARDNER recalled testimony that there are licensed nurses who are not working in the profession because of working conditions. She asked Mr. Smith whether working conditions contribute to the shortage of competent nurses.

MR. SMITH advised that hiring competent nurses has not been a problem at Central Peninsula General Hospital.

[12:47:47 PM](#)

REPRESENTATIVE GARDNER further asked, "... if you can get plenty of competent nurses why would you find yourself in a situation where nurses might need to work more than 14 hours"

[12:48:04 PM](#)

MR. SMITH gave the example of operating room nurses who may wish to remain on-call after their shift. In this case, there is the potential for the nurse to work more than 14 hours; in fact, the nurse may prefer to work under that scenario rather than to be on-call the next day. He explained that these variables are allowed by the negotiated collective bargaining agreement and save the hospital the cost of hiring more nurses.

[12:49:06 PM](#)

REPRESENTATIVE GARDNER observed that, although the hospital administration may believe it would not make sense to relieve the nurse, a patient may have the perspective that the nurse has worked 14 hours and is ready to go home.

[12:49:35 PM](#)

MR. SMITH stated that he did not know what a nurse would prefer to do in that situation.

[12:49:54 PM](#)

PATRICIA REYNAGA, Registered Nurse, Providence Hospital, informed the committee that she was speaking as an individual. She said that during her 29-year career in nursing and management she has not been asked, or asked anyone, to work overtime. During her experience as a nursing supervisor at Elmendorf Air Force Base and at Providence Hospital she stated that she would not have wanted anyone working who was sleep deprived or unable to work for any reason. Ms. Reynaga expressed her opposition to the bill and opined that nursing shortages and retention are not a problem in her area. She acknowledged that problems persist at the API and that more valid data is needed to make decisions; in fact, the Alaska Board of Nursing is conducting a survey.

[12:52:51 PM](#)

REPRESENTATIVE ROSES asked Ms. Reynaga to explain her opposition to the bill.

MS. REYNAGA explained that scheduling becomes more difficult if nurses can not make changes to their schedule that they want. The present system allows for more flexibility. Furthermore, she pointed out that there are not many complaints considering the number of nurses working in the state.

[12:55:29 PM](#)

PATTY ARTHUR, Licensed Practical Nurse, informed the committee that she was speaking on behalf of the Baylor program at North Star Hospital. Her 16-hour, weekend work schedule allows her and her fellow employees to continue their educations or care for children during the week. She expressed her appreciation for the added language on page 3, line 16 through 17, of the bill.

[12:57:42 PM](#)

PAM READ, Psychiatric Nurse, North Star Hospital, stated that she is a single mom who also attends school and works long hours by choice, not because she is forced to. She expressed her support for "the amendment."

[12:58:58 PM](#)

REPRESENTATIVE ROSES asked whether other nurses are pressured to work long hours, not by choice.

MS. READ said no. During her shift if someone needs to go home, they are replaced.

[1:00:01 PM](#)

REPRESENTATIVE GARDNER asked whether Ms. Read feels as capable in her fifteenth hour of work as in the seventh hour of work.

MS. READ opined that she can provide the care needed. Furthermore, she is able to report to doctors on her patient's behavior through the entire course of the day.

[1:01:10 PM](#)

REPRESENTATIVE GARDNER asked whether Ms. Read has read the studies that report that acuity and effectiveness diminish with time.

MS. READ stated that she was familiar with the studies; however, working long hours is a personal decision and is not a problem for some people.

[1:01:58 PM](#)

REPRESENTATIVE GARDNER asked for Ms. Read's opinion on state and federal regulations that limit the hours airline pilots or truck drivers can work without resting.

MS. READ opined that "blanket laws" should allow for exceptions. She could not speak for pilots or truck drivers.

[1:02:41 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether Ms. Read could relate how many "incidents" on her record occurred after 12 hours of work.

MS. READ said no.

[1:03:21 PM](#)

PAT HIGGINS, Director, Human Resources, North Star Hospital, spoke in opposition to SB 28, and pointed out the disparity of its effect on facilities of various sizes and specialties. He described North Star Hospital's use of the Baylor program of weekend scheduling that does not rely on mandatory overtime or on-call time. He noted that the inflexibility of the bill would prevent smaller hospitals from placing specially trained nurses on call to cover their departments.

[1:05:22 PM](#)

ELIZABETH CHENEY, Representative, Alaska Native Health Board; Alaska Native Tribal Health Consortium, informed the committee that the Alaska Native Health Board (ANHB) is a statewide advocate for Native health that encourages self-determination in health care services and wellness in Native communities through policy change. She was also representing the Alaska Native Tribal Health Consortium (ANTHC), that is a tribally controlled, non-profit, statewide tribal organization providing a range of medical and community health services for Alaska Natives and that is a part of the Alaska Tribal Health System. She noted that these two organizations have three primary concerns about the legislation. The first was that the bill is in conflict with Alaska's policy of allowing health care facilities

flexibility in scheduling direct health care providers. Secondly, the bill creates the impression that it applies to federal and tribal facilities. Lastly, as currently drafted, the bill would have a disproportionately detrimental impact on citizens in rural Alaska. Ms. Cheney pointed out that nurse vacancy rates, staff turnover, and recruitment costs for Northwest and Southwest Alaska are much higher than they are statewide and the shortage of nurses with special training is critical. Limiting the availability of these nurses would mean some patients would not be cared for by the most experienced and highly trained nurse. She concluded by asking how to explain to a patient that the most qualified nurse is not available because she has already worked one shift.

[1:08:57 PM](#)

REPRESENTATIVE GARDNER pointed out the exemption on page 3, line 1, of the bill that allows for "an unforeseen emergency situation" and opined that the exemption would apply to a situation that could jeopardize patient safety. Further, in response to a question from Ms. Cheney about an emergency exacerbated by transportation delays due to weather, she informed Ms. Cheney of a forthcoming amendment that would include weather as a condition to exempt mandatory overtime.

MS. CHENEY asked for a response to the proposed amendment that she submitted with her written testimony.

[1:10:21 PM](#)

REPRESENTATIVE GARDNER replied that she had read the amendment but disagreed with the exemption of federal facilities due to safety concerns.

[1:11:09 PM](#)

TINA GONZALES, Registered Nurse, stated that she has been required to work mandatory overtime. Her job began in October, and she was told that she would have to work on-call once-in-a-while. In fact, the on-call requirement is one night every week, and can equal one whole extra week of work.

[1:12:19 PM](#)

CHAIR WILSON asked whether Ms. Gonzales worked work 12-hour shifts.

MS. GONZALES said yes, and added that her graveyard shift is three on, two off, three on. Under some circumstances, nurses work eight nights in a row and safety becomes involved. She concluded that mandatory overtime is a reality.

[1:13:12 PM](#)

REPRESENTATIVE FAIRCLOUGH asked for clarification between what was required from the hospitals; mandatory overtime, mandatory on-call, or both.

[1:13:46 PM](#)

MS. GONZALES said she was told that she would have mandatory on-call; however, when called in that equates to mandatory overtime. Further, nurses are required to sign up for on-call time, and additional time is assigned, when necessary.

[1:14:40 PM](#)

REPRESENTATIVE GARDNER pointed out that the use of overtime and the on-call policy at Providence Valdez Medical Center was not reported on the chart provided by ASHNHA.

[1:15:14 PM](#)

SHARA SUTHERLIN, Chief Nurse Executive, Providence Medical Center, stated that she has been a nurse for 31 years with experience in medical-surgical, cardiovascular, float pool, and leadership positions in nursing. She expressed her support for the previous testimony by Rob Betit of ASHNHA and informed the committee that patient safety and concern for the healthy working environment of nurses are a priority at Providence Medical Center. In fact, the hospital conducts collaborative, unit-based councils and key committees with clinical and management nursing teams to develop nurse staffing schedules that meet nurse and patient needs. Furthermore, Providence Medical Center maintains appropriate nurse and patient ratios and hires new nursing graduates and students through its fellowship program. Collective bargaining with staff has resulted in the following improvements: an increase in specially certified nurses; the deployment of rapid response teams to support nurses; implementation of a transport and lifting center; and improvements in the function and convenience of rooms. Ms. Sutherlin concluded by saying that Providence Medical Center has increased the conversion rate of traveling nurses to permanent hire.

[1:18:17 PM](#)

REPRESENTATIVE ROSES asked whether Ms. Sutherlin tracks the incidents of possible compromise of patient care.

MS. SUTHERLIN said yes. She added that the risk management department looks at incidents such as "never events," falls, infections, and injuries, and balances those events with "work hours per patient day." The results are communicated and interventions are made when necessary.

REPRESENTATIVE ROSES asked whether the incidents are reported internally or externally.

MS. SUTHERLIN explained that incidents are reported back to the clinical and managerial staff and improvements are reported on an annual basis. In addition, there is a performance improvement team and administrative review of cumulative issues and trends.

[1:20:18 PM](#)

REPRESENTATIVE ROSES further asked whether there is an opportunity in the incident report to indicate the amount of time that the person involved has been working.

[1:20:40 PM](#)

MS. SUTHERLIN stated that every incident report has many variables and factors that are considered. A team scrutinizes root cause analyses to understand the work environment involved.

REPRESENTATIVE ROSES then asked whether there has there been an increase or decrease in incidents that were a result of the amount of time an employee has been working.

MS. SUTHERLIN stated that when there is an increase in volume in a unit, such as the neonatal unit, additional bedside support and specialists are brought in.

[1:22:03 PM](#)

REPRESENTATIVE ROSES restated her answer for clarity and repeated his question.

[1:22:33 PM](#)

MS. SUTHERLIN opined that there have been seasonal issues, particularly in the children's hospital and additional physicians have been added and, when necessary, patients have been diverted to other facilities. In response to additional questioning by Chair Wilson, she concluded that the number of incidents is staying the same.

[1:24:02 PM](#)

REPRESENTATIVE GARDNER asked Ms. Sutherlin whether her nurses work overtime immediately following a 12-hour shift.

[1:24:22 PM](#)

MS. SUTHERLIN, said nurses work beyond a 12-hour shift less than 10 percent of the time.

[1:25:07 PM](#)

REPRESENTATIVE GARDNER then asked how often nurses work longer than 14 consecutive hours.

MS. SUTHERLIN stated that she was unsure of how often that happens.

[1:25:19 PM](#)

REPRESENTATIVE GARDNER asked whether nurses were called back following a 12-hour shift.

MS. SUTHERLIN explained that the focus of the on-call program is on those who have had time off.

REPRESENTATIVE GARDNER re-stated her question.

MS. SUTHERLIN said, "That is very minimal."

REPRESENTATIVE GARDNER asked whether there are nurses who work more than four 12-hour shifts over consecutive days.

MS. SUTHERLIN explained that most people prefer to work three or less twelve-hour shifts; in fact, working over four or five twelve-hour shifts is not favored and those who do are followed closely for negative impacts.

[1:26:40 PM](#)

REPRESENTATIVE GARDNER remarked:

When you have an incident and you do your balance score card, what percentage of the time would you say that the nurse has worked more than 12 hours?

MS. SUTHERLIN responded that the working hours may not be cumulatively added. The unit's hours per patient day are considered along with the type of care model.

[1:27:14 PM](#)

SCOTT JUNGWIRTH, Chief Human Resources Officer Providence Health & Services, Alaska, stated that he is representing Providence Health & Services, Alaska and is in opposition to SB 28. His experience is that Providence has never mandated a registered nurse to work overtime. The primary solution to staffing shortages is the use of traveling nurses and agency nurses, and some voluntary overtime. Mr. Jungwirth pointed out that Providence commits thousands of dollars to address shortages every year, while nurse and patient safety is at the forefront of every staffing decision. He assured the committee that the request of any nurse to rest would be granted by management. Furthermore, Providence strives to maintain employee satisfaction; in fact, long-term employees cite their satisfaction with managers, flexibility of schedules, and work options. He cautioned that mandating legislation around the use of overtime would limit Providence's ability to work with nurses and generate ways to address patient needs, and requested that SB 28 not be moved forward.

[1:29:37 PM](#)

CHAIR WILSON stated that she has received complaints from Providence nurses regarding patient care and work obligations.

[1:30:18 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether Mr. Jungwirth would consider someone who is called in during on-call to be working voluntary overtime.

MR. JUNGWIRTH acknowledged that there is mandatory on-call and, when an individual is called in, overtime would be associated with that.

REPRESENTATIVE FAIRCLOUGH further asked whether that situation would be counted as mandatory or voluntary.

MR. JUNGWIRTH said that would be a mandatory situation.

[1:30:51 PM](#)

REPRESENTATIVE FAIRCLOUGH referred to the survey information received from ASHNHA and asked whether Mr. Jungwirth would like to re-state his answer.

MR. JUNGWIRTH opined that mandatory on-call was different than mandatory overtime.

REPRESENTATIVE FAIRCLOUGH disagreed. She asked:

If you have somebody on a mandatory on-call and they come in, I want to know, on this report that's before us, when you answer the question from your own hospital's association, are you counting that as volunteering?

[1:31:26 PM](#)

MR. JUNGWIRTH stated that he did not fill out the report and would have to look at the response to that question.

REPRESENTATIVE FAIRCLOUGH pointed out the conflicting information from different hospitals revolving around mandatory overtime and mandatory on-call. Hospitals report that they do use mandatory on-call and not mandatory overtime, but then incorrectly state that mandatory on-call does not generate mandatory overtime.

MR. JUNGWIRTH opined that there is a distinction between mandatory on-call and mandatory overtime and mandatory on-call was used as a last resort.

[1:33:00 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether assigning on-call scheduling by an administrator on a non-voluntary basis was fair.

MR. JUNGWIRTH stated that the question was unclear. He then stressed that mandatory on-call was still a last resort but was

necessary to care for patients when time was not filled by agency or traveling nurses.

1:34:06 PM

REPRESENTATIVE FAIRCLOUGH cited her personal understanding of the high frequency that on-call was assigned at his facility and invited him to contact her directly if he has different information.

1:34:49 PM

MARY STACKHOUSE, Neonatal Intensive Care Nurse, Providence Hospital, stated that she has been a registered nurse for 35 years, with 21 years working in Alaska. She stated that the intent of nurses is to disallow employers from mandating nurses to work longer than the regularly scheduled time. She cautioned that the mandate must not be used as a staffing tool and to prevent the need for mandating overtime is preferable to searching for a remedy later.

1:37:35 PM

NORMAN STEVENS, Chief Executive Officer, Mat-Su Regional Medical Center, stated that the legal and union representatives have presented a predictable mantra that working conditions in hospitals are very poor. He voiced his highest concern for the welfare of the staff and nurses at Mat-Su Regional Medical Center. Mr. Stevens pointed out that the House Health, Education and Social Services Standing Committee was going to be challenged not only with nurse overtime issues, but with health care reform. He opined that mandatory on-call was necessary for units such as surgery, because they are a low volume unit that is not staffed 24-hours a day, but must be open for emergencies. He responded to a question by Representative Roses and explained that the price of malpractice insurance is minimal when compared to staff costs. Mr. Stevens concluded that hospital staffing is a complicated and difficult problem to regulate.

1:41:18 PM

REPRESENTATIVE GARDNER asked Mr. Stevens to respond to Mary Stackhouse's testimony that nurses who asked for rest were required to work anyway.

MR. STEVENS acknowledged that that situation is a tragedy, and represents a staffing breakdown due to emergencies that can not

be planned for. Further, he said shame on any hospital that tries to make extra profit off the backs of their nursing staff by not providing an adequate staffing level. He opined that working a 12-hour day is arduous and working a 14-hour day is unbearable. Because there is no nursing shortage in his area, this has not been an issue at the hospital he oversees.

[1:44:14 PM](#)

REPRESENTATIVE GARDNER asked whether nurses work overtime immediately following a 12 hour shift.

MR. STEVENS said frequently.

REPRESENTATIVE GARDNER further asked whether nurses are called back after a 12-hour shift.

MR. STEVENS said that is almost unheard of due to the presence of working managers.

[1:45:01 PM](#)

REPRESENTATIVE GARDNER then asked how often nurses work longer than 14 consecutive hours.

MR. STEVENS said almost never.

[1:45:34 PM](#)

PAUL MORDINI, Registered Nurse, Nursing Supervisor, Alaska Psychiatric Institute, stated his support for SB 28 and cited his experience in the military where, during emergency operations, he worked 12 hours on, 12 hours off, to ensure adequate rest and safe practices. When he took his civilian position he was required to work mandatory overtime and he sometime works double shifts on a voluntary basis to avoid mandatory overtime that interferes with his family time. He questioned the safety of having an aging nurse work a 15-hour day and then dispense complicated medication, assist with life-saving surgery, or complete assessments.

[1:48:48 PM](#)

REPRESENTATIVE FAIRCLOUGH requested an opportunity to speak to the forthcoming amendments.

The committee took an at-ease from [1:49:20 PM](#) to [1:50:38 PM](#).

[1:50:44 PM](#)

CHAIR WILSON announced her intent to move the bill today, and encouraged the witnesses to speak briefly.

[1:51:35 PM](#)

JUDY EVANS, Registered and Certified Nurse, Alaska Regional Hospital, stated that she has been a nurse for 34 years in many fields. She said that she is a recovery room nurse and has been on call since last Saturday; in fact, she relayed her work schedule for the last week. Ms. Evans told the committee of a recent experience with a co-worker who fell asleep during a case.

[1:53:30 PM](#)

DEB DRAKE, Recovery Room Nurse, Alaska Regional Hospital, agreed that mandatory on-call equates to mandatory overtime and results in personal difficulties for the nurses and compromised care for the patients.

[1:54:17 PM](#)

STACY ALLEN, Registered Nurse; Business Agent, Laborers Local 341, Alaska Regional Hospital, stated that Laborers Local 341 represents 225 nurses at Alaska Regional Hospital. She pointed out that numerous industries regulate hours worked as a matter of public safety; this regulation was not self-imposed but was legislated by the government. On behalf of the 2,500 members of Laborers Local 341, she expressed her strong support for the bill.

[1:55:35 PM](#)

ELIZABETH WOODWARD, Chief Nursing Officer, Fairbanks Memorial Hospital, informed the committee that she is an experienced nurse. She stated that, although nurses should not have to work when unsafe, she opposed the bill due to her belief that nurses and management can work together. There is successful shared decision making at her hospital and schedules should be made at the local level.

[1:56:48 PM](#)

REPRESENTATIVE GARDNER asked whether legislation to solve the problem is appropriate if management at the local level is not working well, and nurses are being forced to take mandatory overtime.

MS. WOODWARD opined that that situation would be tragic.

[1:57:08 PM](#)

MICHAEL ZIELASKIEWICZ, Chief Nursing Officer, Mat-Su Regional Medical Center, stated his personal objection to nurses working in a mandatory overtime situation; however, he said that he opposed the bill because it is unnecessary and unwarranted legislation. Further, he opined that this is a hospital specific issue and should be addressed on an individual basis. His experience is in keeping overtime to a minimum and he challenged the methodology of the Alaska Nurses Association and its conclusions. He warned that the legislation would create more dangerous situations for patients when they are turned away due to the lack of staff at the hospital. Mr. Zielaskiewicz concluded that the real problem is the nursing shortage and advocated support for nursing schools.

[1:59:39 PM](#)

REBECCA BOLLING, Registered Nurse, Ketchikan General Hospital, confirmed that mandatory on-call generally leads to mandatory overtime and is used on a regular basis in the operating room at Ketchikan General Hospital. The bargaining unit has been unable to address the situation and stronger action is needed. She stressed the importance of a mandatory rest period for the health of the nurses and the safety of the patients.

[2:01:03 PM](#)

JACK DAVIS, Director, Human Resources, Bristol Bay Area Health Corporation, spoke in opposition to SB 28. He agreed with the purpose to protect nurses; however, as written, the bill does not support the availability of nursing staff. In fact, for a small, rural, critical access hospital, staffing has to be used to meet patient care needs and can not be done without traveling and agency nurses. He urged the committee to consider the effect of the legislation on small facilities in rural settings. Mr. Davis observed that his hospital uses mandatory shifts about once per month, per nurse.

[2:03:20 PM](#)

PAT SENNER, Anchorage, Alaska, addressed the proposed amendment that exempts federal and Native health facilities from the bill. She described the present staffing difficulties at a health care facility in the state. Ms. Senner opined that SB 28 is a "prevention bill" that will prevent other hospitals from situations similar to that of API.

[2:05:03 PM](#)

NANCY DAVIS, Registered Nurse, relayed her varied experience in nursing for 39 years. She stated her support for SB 28 and cited recent evidence that indicate that fatigue and long hours can equal response times and judgment similar to that of driving under the influence. She opined that nurses continue to work, powered by adrenaline and obligation. Ms. Davis expressed her support for the protective aspect of SB 28.

[2:06:46 PM](#)

LAUREE MORTON, as an observer not employed in the health care industry, stated her support for SB 28. She acknowledged the different perspectives of administrators, nurses, and patients. Ms. Morton recalled her personal experience observing hospital care for long periods of time and reported that care was abraded at the end of long shifts; in fact, mistakes were made. She reminded the committee of its responsibility to keep patient safety in mind. She opined that the reporting and penalty requirements of the bill should be retained. Furthermore, this is a public policy issue and the legislature should be involved in mismanagement and worker's concerns.

[2:10:14 PM](#)

CHAIR WILSON closed public testimony.

[2:10:27 PM](#)

REPRESENTATIVE GARDNER offered Conceptual Amendment 1, as follows:

Page 3, line 4, following "disaster,";
Insert "weather,"

REPRESENTATIVE GARDNER explained that this amendment is in response to Ms. Cheney's concern that delays due to inclement weather need to be exempted from the limitations of overtime.

There being no objection, Conceptual Amendment 1 was adopted.

[2:11:18 PM](#)

REPRESENTATIVE ROSES offered Amendment 2, as follows:

Page 2, lines 11 and 12;

Delete "or coerced, directly or indirectly,"

CHAIR WILSON objected.

REPRESENTATIVE GARDNER said that the amendment removes the controversy over the definition of "what is mandatory and who is using it and who is not."

[2:12:23 PM](#)

GREY MITCHELL, Director, Central Office, Division of Labor Standards & Safety, Department of Labor & Workforce Development, advised that the amendment would make things simpler from an enforcement perspective. He explained that the issue of coercion opens "a can of worms" that would need to be addressed by regulations.

[2:13:29 PM](#)

CHAIR WILSON removed her objection.

There being no further objection, Amendment 2 was adopted.

[2:13:41 PM](#)]

REPRESENTATIVE GARDNER offered Amendment 3, as follows [original punctuation provided]:

Page 3, lines 8 and 9;

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

REPRESENTATIVE GARDNER stated that agreement with the underlying bill that working beyond 14 hours per day, or beyond a certain number of shifts, is dangerous, then voluntary on-call retains that same level of danger. The amendment directs that extended on-call would be disallowed whether it is mandated or voluntary.

REPRESENTATIVE ROSES objected.

[2:14:14 PM](#)

REPRESENTATIVE SEATON asked for clarification of the phrase "fulfilling on-call time."

[2:14:43 PM](#)

CHAIR WILSON explained that "these situations don't count."

[2:15:12 PM](#)

REPRESENTATIVE SEATON said:

We're removing an exception but I'm not sure if the exception is working time, or if it's on-call. And whether, if someone is on-call, they can be at home and does that, they could be on call for 12 hours.

CHAIR WILSON stated that a nurse could be at home and not get called, or could be called in and have to work for 12 hours.

[2:15:50 PM](#)

REPRESENTATIVE SEATON further asked if someone is on-call for 12 hours ...

[2:16:01 PM](#)

REPRESENTATIVE ROSES spoke to his objection. He remarked:

If you read it in its entirety, it says, ... subsection (a) of this section does not apply to a nurse fulfilling on-call time that is agreed upon by the nurse. We're talking about mandatory overtime, mandatory on-call, this is one where they have agreed to be on-call.

[2:16:35 PM](#)

REPRESENTATIVE GARDNER paraphrased:

The way it would read, ... except as provided in section (c), a nurse may not be required to work beyond a predetermined regularly scheduled shift. And then some sections that do not apply are: a nurse

fulfilling an on-call time that is agreed upon by the nurse before it's scheduled. What we're trying to get at ... is a nurse working on-call, who's not just come off of a 14 hour shift, who's had 10 hours rest, on-call is fine. But, if the nurse works that 12-hour on-call shift, then he or she can not work subsequently a scheduled shift that is immediately following. The provisions limiting the amount of time working still are in effect, even if the nurse has agreed to on-call time.

[2:17:53 PM](#)

CHAIR WILSON asked, "Then you don't want that to be an exemption?"

REPRESENTATIVE GARDNER said, "Exactly."

REPRESENTATIVE ROSES maintained his objection.

[2:18:16 PM](#)

REPRESENTATIVE CISSNA asked whether, in a situation where the nurse may want to work extra hours, limiting hours would protect the patient.

[2:20:00 PM](#)

REPRESENTATIVE GARDNER agreed that the intent of the amendment was to ensure that the maximum safe overtime can not be exceeded even by agreement with the nurse.

[2:20:21 PM](#)

CHAIR WILSON asked about paragraph 5, and read:

... so long as the work is consistent with professional standards and safe patient care and does not exceed 14 consecutive hours.

CHAIR WILSON suggested that this caveat could be applied to section (4).

[2:20:41 PM](#)

REPRESENTATIVE ROSES disagreed. He opined that each of these provisions apply to the entire bill. It is not necessary to add it.

[2:21:00 PM](#)

REPRESENTATIVE GARDNER agreed and withdrew Amendment 3.

[2:22:04 PM](#)

REPRESENTATIVE SEATON moved Conceptual Amendment 4, as follows:

Page 3, line 16, following "contract";
Insert "at a residential psychiatric treatment
center"

REPRESENTATIVE ROSES objected.

REPRESENTATIVE SEATON explained that the amendment addresses the Baylor plan [of weekend scheduling] that is specific to a residential psychiatric treatment center (RPTC). It has been determined that at a RPTC, nursing is a different job than in a hospital. Thus, limiting the maximum hours to 14 was applicable to other cases, except 16-hour shifts would be allowed at an RPTC.

[2:23:33 PM](#)

REPRESENTATIVE ROSES maintained his objection. He recalled testimony that supported this type of weekend scheduling for facilities other than RPTCs.

[2:24:08 PM](#)

CHAIR WILSON agreed.

[2:24:21 PM](#)

REPRESENTATIVE GARDNER stated her support for the amendment and pointed out the difference between a hospital and a residential treatment center.

[2:25:22 PM](#)

REPRESENTATIVE SEATON stressed that the amendment addresses health and safety. He opined that data indicates that allowing

16 hours in any regular nursing situation was asking for problems.

[2:26:09 PM](#)

REPRESENTATIVE ROSES noted that the amendment takes out the flexibility of the bill. He maintained his objection.

[2:26:45 PM](#)

A roll call vote was taken. Representatives Seaton, Cissna, Gardner, voted in favor of Amendment 4. Representatives Roses and Wilson voted against it. Therefore, Amendment 4 was adopted by a vote of 3-2.

[2:27:42 PM](#)

REPRESENTATIVE GARDNER moved to report CSSB 28(FIN), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 28(HES) was reported out of the House Health, Education and Social Services Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [2:28:14 PM](#).