

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

April 4, 2007

2:49 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Joe Thomas, Vice Chair
Senator Kim Elton
Senator John Cowdery

MEMBERS ABSENT

Senator Fred Dyson

COMMITTEE CALENDAR

SENATE BILL NO. 28

"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."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

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

WITNESS REGISTER

Tom Obermeyer, aide to Senator Davis
Juneau, AK

POSITION STATEMENT: Presented SB 28

Donna Phillips
Alaska Nurses Association (ANA)
Girdwood, AK

POSITION STATEMENT: In support of SB 28

Nancy Davis

Alaska Nurses Association (ANA)
Anchorage, AK
POSITION STATEMENT: In support of SB 28

Edward Lamb, President and CEO
Alaska Regional Hospital
Anchorage, AK
POSITION STATEMENT: In opposition of SB 28

Rod Beatty, President
Alaska State Hospital and Nursing Home Association (ASHNHA)
Juneau, AK
POSITION STATEMENT: In opposition of SB 28

John Pound
Alaska Psychiatric Institute
Anchorage, AK
POSITION STATEMENT: In support of SB 28

Mark Beatty, Human Resources Director
Bartlett Regional Hospital
Juneau, AK
POSITION STATEMENT: In opposition of SB 28

Ruth Benson, representing herself
Fairbanks, AK
POSITION STATEMENT: In support of SB 28

Stacy Allen
Laborers Local 341
Anchorage, AK
POSITION STATEMENT: In support of SB 28

Russell Grange, Human Resources Officer
Providence Hospital
Anchorage, AK
POSITION STATEMENT: In opposition of SB 28

Gena Edminston
Fairbanks Memorial Hospital
Fairbanks, AK
POSITION STATEMENT: In opposition of SB 28

Debbie Thompson, President
Alaska Nurses Association
Anchorage, AK
POSITION STATEMENT: In support of SB 28

Michael Zielaskiewicz, Chief Nursing Officer
Mat-Su Regional Hospital
Palmer, AK

POSITION STATEMENT: In opposition of SB 28

Paul Mordini, representing himself
Eagle River, AK

POSITION STATEMENT: In support of SB 28

ACTION NARRATIVE

CHAIR BETTYE DAVIS called the Senate Health, Education and Social Services Standing Committee meeting to order at [2:49:49 PM](#). Present at the call to order were Senators Elton, Thomas, Cowdery, and Chair Davis.

SB 28-LIMIT OVERTIME FOR REGISTERED NURSES

[2:51:12 PM](#)

CHAIR BETTYE DAVIS announced SB 28 to be up for consideration.

TOM OBERMEYER, aide to Senator Davis, sponsor of SB 28, said that the bill will limit the use of mandatory overtime for nurses, except in emergency situations and when the nurse chooses to do so. The bill also protects nurses from discrimination and retaliation by employers if they refuse to work unsafe overtime. SB 28 will be a step in the direction to improving health care in Alaska.

CHAIR DAVIS said that the testimony would be limited to two minutes for each person wishing to speak. She then recognized that Senator Cowdery was present.

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SENATOR ELTON moved to adopt the proposed committee substitute to SB 28, labeled 25-LS0212\K, Version K, as the working document of the committee. There being no objection, the motion carried.

[2:54:58 PM](#)

DONNA PHILLIPS, with the Alaska Nurses Association (ANA), explained her work history in nursing, and said that patient safety is the foremost concern of nurses. Nurses are patient advocates and a link between consumers and physicians.

NANCY DAVIS, with the ANA, related her work history and said that the ANA is in support of SB 28; the issue is a matter of patient safety, and like other occupations nurses should have limits set on work hours. There are many categories of overtime, but they all mean working in excess of the hours that can be safely completed by a nurse.

She referenced a study that shows the side effects of working long hours, which are similar to those incurred by drinking and can have a significant impact on patient safety. Working more than 12.5 hours in a shift increases the likelihood of nurse error; SB 28 will limit the number of hours worked to 14, which is still on the long side. She continued to list the dangers of overworking, including patient infection, medication errors, and inattention to patient condition. The link between overworking and medical risk is clear; it would be ideal for everyone to work only the safe number of hours, but it's not always possible.

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MS. PHILLIPS said that the issue is one of public safety; nurses need to be properly alert on the job. The bill is needed because all nurses aren't covered by collective bargaining agreements. She related an example of such an agreement reached by the state of Washington that resulted in a reduction in forced overtime with no negative results. She cited the number of hospital deaths each year that can be attributed to medical error, and mentioned another study that showed the link between long hours and medical error and injury.

[3:06:12 PM](#)

MS. DAVIS asked for the committee's support on the bill, and explained the positive benefits the legislation would have, including protecting all elements of the profession.

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SENATOR DYSON if many of the cases of forced overtime take place at the Alaska Psychiatric Institute (API).

MS. DAVIS said that it's not just one facility causing the problem; many facilities are extending their nurses' hours.

SENATOR DYSON asked if there are facilities where the nurses have complained of forced work.

MS. DAVIS replied that there are numerous nurses in the ANA who complain of required mandatory overtime.

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MS. PHILLIPS added that there are nurses who are required stay at work up to 20 hours straight.

SENATOR DYSON asked if they file grievances.

MS. DAVIS replied that not all nurses are covered by collective bargaining agreements; often nurses will try to remain at work anyway because they feel they're needed. However, overtime shouldn't be used as a management strategy.

SENATOR DYSON asked why nurses wouldn't move to a different facility that would treat them better.

MS. DAVIS said that generally nurses who do leave facilities are leaving the profession in general.

[3:11:45 PM](#)

SENATOR DYSON repeated his question, and said that the state may have a lack of portability in benefits, which would mean that some nurses could not afford to leave their job.

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EDWARD LAMB, President/CEO of Alaska Regional Hospital, said that the hospital employs over 450 registered nurses and it allows its staff to volunteer for overtime shifts. Travel nurses have been brought into the state as well, which is a management responsibility to maintain safety levels; the bill is an unnecessary piece of surplus regulation.

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SENATOR ELTON asked what rights a consumer has if they feel their hospital nurse is overworked, and if they could request a different nurse.

MR. LAMB said that a consumer could request any specific nurse; there's not an unlimited supply of nurses, but the request would be taken into account.

SENATOR ELTON said that he was puzzled by the definition of mandatory overtime, and asked if nurses must deal with ramifications for refusing an on-call shift.

MR. LAMB replied that his facility doesn't generally allow on-call shifts after a certain amount of time already worked.

[3:16:49 PM](#)

SENATOR COWDERY asked if a nurse's work-week is flexible.

MR. LAMB replied in explaining different types of work schedules.

SENATOR COWDERY asked if any time worked over eight hours daily is overtime.

MR. LAMB said that anything in excess of overtime rules would count as such.

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SENATOR THOMAS said that he was looking at a chart that showed that there's no overtime reported in the state's hospitals, and asked if Mr. Lamb keeps track of his staff's overtime.

MR. LAMB said that the hospital does collect that data.

SENATOR THOMAS asked which facility Mr. Lamb represents.

MR. LAMB replied that he represents Alaska Regional Hospital.

SENATOR THOMAS asked if the hospital records would show any mandatory overtime in the last year.

MR. LAMB said that the hospital does not use mandatory overtime; they draw upon volunteers and contract labor.

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ROD BEATTY, President of the Alaska State Hospital and Nursing Home Association (ASHNHA), clarified that he was not speaking on behalf of API and Pioneer Home members. He said that the ASHNHA membership is opposed to the bill, because of its implications in labor relations and cost of health insurance. He cited a survey showing that mandatory overtime isn't commonly used in the state, and no related grievances were found to have been

filed. The University of Alaska nursing program is producing more nurses than ever; Alaska doesn't need this legislation.

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CHAIR DAVIS asked Mr. Beatty if he would like to make any more comments.

MR. BEATTY said that the only facility with overtime issues in the last two years was API, and the situation has since improved. Health care management works with nursing representatives to determine proper work conditions, and the bill will place nursing management in unfair position. The definition of emergency in the bill is also unclear, and the reporting requirement would be burdensome and useless.

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SENATOR THOMAS asked why the bill is being presented if there's no need for it.

MR. BEATTY replied that he couldn't explain why the legislation is needed, and it creates the problems that he previously mentioned.

SENATOR THOMAS asked if Mr. Beatty would consider amending the bill.

MR. BEATTY said that last year the ASHNA offered reporting of overtime as a compromise, but it wasn't accepted.

[3:30:03 PM](#)

SENATOR ELTON commented that part of the ASHNA's issue with the bill was unclear, and said that the bill seems appropriate to him. He asked what hospital CEOs think an appropriate maximum working time would be.

MR. BEATTY said that he couldn't give an exact number, and the question would have to be asked to each facility.

SENATOR ELTON said that a facility survey had been done, but that it was missing an estimate of what a hospital CEO thinks is a reasonable amount of overtime. He said that nurses have told him that after 8 hours they're not as effective.

[3:32:36 PM](#)

MR. BEATTY said that hospitals and employees don't like the imposition on their methods of scheduling; some nurses want to work longer shifts, and there hasn't been any documented evidence of overtime problems.

SENATOR ELTON said that he's seen evidence of the problem, and requested a better definition of an emergency situation where overtime could be demanded.

[3:34:19 PM](#)

SENATOR COWDERY said that the issue appears to be one of labor, which should be dealt with through negotiations and contracts.

MR. BEATTY said that he agreed and the ASHNHA membership would as well.

CHAIR DAVIS said that the supporters of the bill might think differently, and asked if ASHNA has met with the ANA this year.

MR. BEATTY said that the two groups have not met.

[3:36:02 PM](#)

SENATOR DYSON asked if Chair Davis planned on moving the bill that day.

CHAIR DAVIS replied that she had not planned to do so.

SENATOR COWDERY asked if hospitals are often sued for negligent care.

MR. BEATTY said that suits are brought, but not often.

SENATOR COWDERY asked if there's a high turnover rate for nurses.

MR. BEATTY said that the rates are dramatically different by facility, and cited some examples.

SENATOR COWDERY asked if Mr. Beatty thinks there is a shortage of nurses.

MR. BEATTY said that personally he thinks so.

[3:37:41 PM](#)

JOHN POUND, with API, said that mandatory overtime has been often used at API, but the situation has recently improved. At API a good reaction time is necessary, and nurses there need to be awake and alert; he added that nurses cannot be chosen by the patients there.

[3:40:16 PM](#)

SENATOR COWDERY asked for comment on negligence lawsuits brought against nurses.

MR. POUND replied that he couldn't comment on that issue.

CHAIR DAVIS announced that there were representatives from the administration available for questions.

[3:41:08 PM](#)

MARK BEATTY, Human Resource Director at Bartlett Regional Hospital, said that the issue is more one of bargaining and labor, and measures are already in effect to keep patients and nurses safe. Mandatory overtime is in Bartlett's collective bargaining agreement, and the capability should be maintained. He explained the hospital's quality standards, and said that in his seven years at the hospital there have been no problems resulting from overtime.

[3:44:43 PM](#)

SENATOR ELTON asked if mandatory overtime is curtailed at 12 hours.

MR. BEATTY explained the shifts offered by the hospital, and said that anything over 40 hours a week is overtime.

SENATOR ELTON said that he had trouble understanding the definition of mandatory overtime, and asked how a potential situation would be categorized.

MR. BEATTY replied that about 15 percent of nurses work overtime on their scheduled shifts, sometimes only a very slight amount.

SENATOR COWDERY asked how many hours a nurse would work in a week if they had 12-hour shifts.

MR. BEATTY said that such a nurse would be scheduled to work three days a week.

[3:47:10 PM](#)

SENATOR THOMAS asked if Bartlett's employees are represented by a union, and what sort of breaks are taken during shifts.

MR. BEATTY replied that they are represented by a union, and explained the breaks included in each shift.

SENATOR THOMAS asked if Mr. Beatty was aware of any national standards regarding employee fatigue.

MR. BEATTY said that information about this has been available for a long time, but in Alaska, even with new University of Alaska students, staffing is tight; temporary nurses are sometimes used to fill schedule holes.

[3:49:51 PM](#)

SENATOR THOMAS asked if the concept of more employees and shorter shifts has been considered.

MR. BEATTY replied that the traveling nurses are used for this reason, and a bigger nursing pool would be better but enough nurses are not available and training is limited.

[3:51:39 PM](#)

SENATOR ELTON asked if Bartlett Hospital has protocol for offering overtime.

MR. BEATTY replied that the house supervisors have a particular rotation that takes many elements into account.

SENATOR ELTON asked if certain nurses are called for certain situations.

MR. BEATTY replied that only qualified nurses are called for certain jobs.

[3:53:26 PM](#)

RUTH BENSON, representing herself, said that she's in favor of the bill because it contains elements to protect nurses from overtime and punishment for refusing it. A lawsuit resulting

from negligence wouldn't help indicate what conditions should exist, but rather would show a grievous failure in the system.

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STACY ALLEN, with Laborer's Local 341, which represents Alaska Regional Hospital, said that filing a grievance is not easy or quick, and it's not the best way to promote public safety. She disagreed with the previous assertion that Alaska Regional Hospital doesn't use mandatory overtime, and that the issue is a question of semantics. On-call work is required, which obviously translates into mandatory overtime. 12-hour shifts are not necessarily chosen by nurses; they're often a condition of employment.

[3:58:41 PM](#)

RUSSELL GRANGE, Human Resources Officer for Providence Hospital, said that while he appreciates the legislation, he doesn't agree with the method therein. Minimizing overtime can be done by treating nurses properly; he suggested that more laws are not needed, but rather more nurses. Retention of nurses is important as well, and Providence does a good job of this. The hospital works together with its nurses' union, which results in more satisfactory results than penalizing and legislation would. Another reason that Providence doesn't support the bill is because it shifts the decision for overtime away from managers to many individual staff members. Flexible scheduling and good work environments are important to retaining nurses.

[4:03:45 PM](#)

CHAIR DAVIS asked Mr. Grange to contact her in the future with suggestions, and asked if he's met with ANA to discuss the bill.

MR. GRANGE replied that he has met with nurses' unions and individual nurses and they've discussed the issue of overtime; he hasn't discussed the bill with ANA but it does seem similar to the bill previously discussed the year before.

CHAIR DAVIS said that the bill might not be perfect, but it's open for changes; getting together to talk about the concerns is important, rather than dismissing the bill altogether. She added that the committee would be coming back to see the bill the next week, and she would like to hear suggestions at that time.

[4:07:06 PM](#)

GENA EDMISTON, with the Fairbanks Memorial Hospital, said that she appreciates the intent of the legislation, and Fairbanks Memorial has been active in providing an empowered environment for its nurses. Management does consult staff on issues like overtime; she noted that all nurses are managed by nurses, who are sensitive to needs. She explained how the hospital is trying to obtain a certain national credential which demonstrates fair treatment of nurses.

She then gave an example of typical nurse work scheduling, and said that the proposed language of the bill could be a hindrance to the way nurses want to schedule their hours.

[4:11:33 PM](#)

SENATOR ELTON asked how Fairbanks Memorial shares decision making and promotes nurse empowerment.

MS. EDMISTON explained the structure of the Fairbanks decision-making council.

SENATOR ELTON asked how a potential situation would be resolved.

MS. EDMISTON explained how shared decision-making is fairly new to the hospital, but that management discusses issues with its nurses.

[4:14:09 PM](#)

SENATOR ELTON asked another hypothetical question.

MS. MISTON said that she couldn't answer the specific question, and gave examples of how nurses' shifts work in her hospital.

[4:15:22 PM](#)

SENATOR THOMAS asked for clarification on the definition of overtime.

MS. EDMISTON explained the definition of overtime versus scheduled shifts.

[4:16:44 PM](#)

DEBBIE THOMPSON, President of ANA, said that the matter is an issue of nurse safety, and nurses work under fear of retaliation

across the nation. Many hospitals in Alaska have made 12-hour shifts mandatory, and the nursing shortage will only get worse over time. Hospitals have tried to renegotiate mandatory overtime to address the shortage, and many are looking at flexible and creative ways to make hours better for nurses.

[4:20:31 PM](#)

MICHAEL ZIELASKIEWICZ, Chief Nursing Officer for Mat-Su Regional Medical Center, said that the issue isn't a new one, and he's opposed to the bill because it won't actually resolve anything; the main issue is a nursing shortage, which will peak in 2010. Hospitals don't like having to require overtime, and at Mat-Su Regional overtime has never been forced. He said that the hospital is moving towards a shared governance organization, like other hospitals.

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SENATOR ELTON said that he understands overtime being a symptom of nursing shortage, but that improvement needs to come in the form of better working conditions and pay. He asked if there's some element of the solution that he's not seeing.

MR. ZIELASKIEWICZ replied that the bill is only addressing a symptom of the problem, and hospitals will begin to have even more difficulties with staffing. Many people apply to nursing schools but there aren't enough spots in the schools to accommodate the applicants. The workforce is aging, and can no longer work the same long hours as they previously wanted.

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PAUL MORDINI, representing himself, related his work history as a nurse and said that working hours are a matter of safety; overtime is a labor issue.

CHAIR DAVIS said that the bill would be looked into in more detail in the next hearings. There being no further business to come before the committee, she adjourned the meeting at [4:28:52 PM](#).