

HOUSE BILL NO. 153

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 3/6/17

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act repealing the certificate of need program for health care facilities; making**
2 **conforming amendments; and providing for an effective date."**

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

4 *** Section 1.** AS 18.20.400(c) is amended to read:

5 (c) Subsection (a) of this section does not apply to

6 (1) a nurse who is employed by a health care facility providing
7 services for a school, school district, or other educational institution, when the nurse is
8 on duty for more than 14 consecutive hours during an occasional special event, such as
9 a field trip, that is sponsored by the employer;

10 (2) a nurse voluntarily working overtime on an aircraft in use for
11 medical transport, so long as the shift worked is allowable under regulations adopted
12 by the Board of Nursing based on accreditation standards adopted by the Commission
13 on Accreditation of Medical Transport Systems;

14 (3) a nurse on duty in overtime status

1 (A) who is participating in the performance of a medical
2 procedure or surgery that has begun but has not been completed;

3 (B) because of an unforeseen emergency situation that could
4 jeopardize patient safety; in this subparagraph, "unforeseen emergency
5 situation" means an unusual, unpredictable, or unforeseen situation caused by
6 an act of terrorism, disease outbreak, natural disaster, major disaster as defined
7 in 42 U.S.C. 5122, or disaster emergency under AS 26.23.020 or 26.23.140,
8 but does not include a situation in which a health care facility has reasonable
9 knowledge of increased patient volume or inadequate staffing because of some
10 other cause, if that cause is foreseeable;

11 (C) because the health care facility has a scheduling problem
12 caused by unforeseen weather conditions that prevent a second nurse from
13 arriving at the facility to relieve the nurse on duty; in this subparagraph,
14 "unforeseen weather conditions" means unusual, unpredictable, or unforeseen
15 weather so extreme as to impair travel to the health care facility, but does not
16 include a situation in which the health care facility has knowledge of the
17 weather conditions far enough in advance to act so that a scheduling problem
18 under this subparagraph can reasonably be avoided; or

19 (D) at a health care facility located in a rural community that
20 declares a temporary nurse staffing emergency under AS 18.20.410;

21 (4) a nurse fulfilling on-call time that is agreed on by the nurse and a
22 health care facility before it is scheduled unless fulfilling the on-call time would, in the
23 nurse's judgment, create an unacceptable risk to the physical safety of the nurse, a
24 patient, or an employee of the facility;

25 (5) a nurse voluntarily working overtime so long as the work is
26 consistent with professional standards and safe patient care and does not exceed 14
27 consecutive hours;

28 (6) a nurse voluntarily working beyond 80 hours in a 14-day period so
29 long as the nurse does not work more than 14 consecutive hours without a 10-hour
30 break and the work is consistent with professional standards and safe patient care;

31 (7) a nurse who

1 (A) is employed

2 (i) at a psychiatric treatment hospital that treats only
3 children or at a residential psychiatric treatment center, as defined in
4 (d) of this section [UNDER AS 18.07.111], that treats only children; in
5 this sub-subparagraph, "children" means persons under 19 years of age
6 who are receiving psychiatric treatment from a hospital or center or
7 who are residing in a center and who were under 18 years of age on the
8 date that the treatment or period of residence commenced;

9 (ii) at a residential psychiatric treatment center as
10 defined under AS 47.32.900; or

11 (iii) at a secure residential psychiatric treatment center
12 as defined under AS 47.12.990;

13 (B) voluntarily agrees to work a 16-hour shift for the period
14 between 5:00 p.m. on a Friday and 8:00 a.m. on the Monday that immediately
15 follows and receives pay and benefits for that work that are equal to or greater
16 than the pay and benefits the nurse would receive for working 20 regular hours
17 in the same position; and

18 (C) during the period described in (B) of this paragraph does
19 not work a 16-hour shift consecutive with another shift of eight hours or more
20 without an intervening break of at least eight hours;

21 (8) the first two hours on overtime status when the health care facility
22 is obtaining another nurse to work in place of the nurse in overtime status, so long as
23 the nurse in overtime status is not on duty for more than 14 consecutive hours.

24 * **Sec. 2.** AS 18.20.400 is amended by adding a new subsection to read:

25 (d) In (c)(7)(A)(i) of this section, "residential psychiatric treatment center"
26 means a secure or semi-secure psychiatric facility or inpatient program in a psychiatric
27 facility that is licensed by the Department of Health and Social Services and that
28 provides therapeutically appropriate and medically necessary diagnostic, evaluation,
29 and treatment services

30 (1) 24 hours a day for children with severe emotional or behavioral
31 disorders;

1 (2) under the direction of a physician; and

2 (3) under a professionally developed and supervised individual plan of
3 care designed to achieve the recipient's discharge from inpatient status at the earliest
4 possible time that is intensively and collaboratively delivered by an interdisciplinary
5 team involving medical, mental health, educational, and social service components.

6 * **Sec. 3.** AS 18.20.499(2) is amended to read:

7 (2) "health care facility" means a private, municipal, or state hospital;
8 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
9 facility; kidney disease treatment center, including freestanding hemodialysis units;
10 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
11 Alaska Veterans' Home administered by the Department of Health and Social Services
12 under AS 47.55; correctional facility owned or administered by the state; private,
13 municipal, or state facility employing one or more public health nurses; long-term care
14 facility; psychiatric hospital; residential psychiatric treatment center, as defined in
15 AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; secure residential psychiatric
16 treatment center as defined in [UNDER] AS 47.12.990; juvenile detention facility;
17 juvenile detention home, juvenile work camp, or treatment facility as defined in
18 AS 47.12.990;

19 * **Sec. 4.** AS 18.26.220 is amended to read:

20 **Sec. 18.26.220. Facility compliance with health and safety laws and**
21 **licensing requirements.** A medical facility constructed, acquired, improved, financed,
22 or otherwise under the provisions of this chapter and all actions of the authority are
23 subject to [AS 18.07,] AS 47.32 [,] and any other present or future state licensing
24 requirements for the facilities or services provided under this chapter. [A MEDICAL
25 FACILITY ISSUED A CERTIFICATE OF NEED UNDER SEC. 4, CH. 275, SLA
26 1976, BY VIRTUE OF BEING IN EXISTENCE OR UNDER CONSTRUCTION
27 BEFORE JULY 1, 1976, MUST FULLY MEET THE REQUIREMENTS OF
28 AS 18.07 IN ORDER TO BE ELIGIBLE FOR FUNDING UNDER THIS
29 CHAPTER.]

30 * **Sec. 5.** AS 18.07.021, 18.07.031, 18.07.035, 18.07.041, 18.07.043, 18.07.045, 18.07.051,
31 18.07.061, 18.07.071, 18.07.081, 18.07.091, 18.07.101, 18.07.111; AS 21.86.030(c)(1);

1 AS 44.64.030(a)(18); and AS 47.80.140(b) are repealed.

2 * **Sec. 6.** Section 4, ch. 275, SLA 1976, is repealed.

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

5 CERTIFICATES OF NEED; APPLICABILITY. The Department of Health and
6 Social Services may not take action on or after the effective date of this Act to revoke,
7 enforce, or modify a certificate of need issued to a health care facility before the effective date
8 of this Act.

9 * **Sec. 8.** This Act takes effect July 1, 2019.