

HOUSE BILL NO. 77

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES RAUSCHER, Johnson, Gillham

Introduced: 2/18/21

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 12.25.030(e) is amended to read:

5 (e) In this section, "health care facility" has the meaning given in
6 **AS 12.55.155(c)(36)** [AS 18.07.111].

7 *** Sec. 2.** AS 12.55.155(c)(36)(A) is repealed and reenacted to read:

8 (A) "health care facility" means a private, municipal, state, or
9 federal hospital, psychiatric hospital, independent diagnostic testing facility,
10 residential psychiatric treatment center as defined in AS 18.20.400(d),
11 tuberculosis hospital, skilled nursing facility, kidney disease treatment center
12 (including freestanding hemodialysis units), intermediate care facility, and
13 ambulatory surgical facility; the term excludes

14 (i) the Alaska Pioneers' Home and the Alaska Veterans'

1 Home administered by the Department of Health and Social Services
2 under AS 47.55; and

3 (ii) the offices of private physicians or dentists whether
4 in individual or group practice;

5 * **Sec. 3.** AS 18.20.400(c) is amended to read:

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

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

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

15 (3) a nurse on duty in overtime status

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

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

26 (C) because the health care facility has a scheduling problem
27 caused by unforeseen weather conditions that prevent a second nurse from
28 arriving at the facility to relieve the nurse on duty; in this subparagraph,
29 "unforeseen weather conditions" means unusual, unpredictable, or unforeseen
30 weather so extreme as to impair travel to the health care facility, but does not
31 include a situation in which the health care facility has knowledge of the

1 weather conditions far enough in advance to act so that a scheduling problem
2 under this subparagraph can reasonably be avoided; or

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

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

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

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

15 (7) a nurse who

16 (A) is employed

17 (i) at a psychiatric treatment hospital that treats only
18 children or at a residential psychiatric treatment center [, AS DEFINED
19 UNDER AS 18.07.111,] that treats only children; in this sub-
20 subparagraph, "children" means persons under 19 years of age who are
21 receiving psychiatric treatment from a hospital or center or who are
22 residing in a center and who were under 18 years of age on the date that
23 the treatment or period of residence commenced;

24 (ii) at a residential psychiatric treatment center as
25 defined in [UNDER] AS 47.32.900; or

26 (iii) at a secure residential psychiatric treatment center
27 as defined in [UNDER] AS 47.12.990;

28 (B) voluntarily agrees to work a 16-hour shift for the period
29 between 5:00 p.m. on a Friday and 8:00 a.m. on the Monday that immediately
30 follows and receives pay and benefits for that work that are equal to or greater
31 than the pay and benefits the nurse would receive for working 20 regular hours

1 in the same position; and

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

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

8 * **Sec. 4.** AS 18.20.400 is amended by adding a new subsection to read:

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

14 (1) 24 hours a day for children with severe emotional or behavioral
15 disorders;

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

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

21 * **Sec. 5.** AS 18.20.499(2) is amended to read:

22 (2) "health care facility" means a private, municipal, or state hospital;
23 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
24 facility; kidney disease treatment center, including freestanding hemodialysis units;
25 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
26 Alaska Veterans' Home administered by the Department of Health and Social Services
27 under AS 47.55; correctional facility owned or administered by the state; private,
28 municipal, or state facility employing one or more public health nurses; long-term care
29 facility; psychiatric hospital; residential psychiatric treatment center, as defined in
30 AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; secure residential psychiatric
31 treatment center as defined in [UNDER] AS 47.12.990; juvenile detention facility;

1 juvenile detention home, juvenile work camp, or treatment facility as defined in
2 AS 47.12.990;

3 * **Sec. 6.** AS 18.26.220 is amended to read:

4 **Sec. 18.26.220. Facility compliance with health and safety laws and**
5 **licensing requirements.** A medical facility constructed, acquired, improved, financed,
6 or otherwise under the provisions of this chapter and all actions of the authority are
7 subject to [AS 18.07,] AS 47.32 [,] and any other present or future state licensing
8 requirements for the facilities or services provided under this chapter. [A MEDICAL
9 FACILITY ISSUED A CERTIFICATE OF NEED UNDER SEC. 4, CH. 275, SLA
10 1976, BY VIRTUE OF BEING IN EXISTENCE OR UNDER CONSTRUCTION
11 BEFORE JULY 1, 1976, MUST FULLY MEET THE REQUIREMENTS OF
12 AS 18.07 IN ORDER TO BE ELIGIBLE FOR FUNDING UNDER THIS
13 CHAPTER.]

14 * **Sec. 7.** AS 18.35.399(9) is amended to read:

15 (9) "health care facility" means an office or institution providing care
16 or treatment for physical, mental, emotional, or other medical, dental, physiological, or
17 psychological diseases or conditions; private, municipal, or state hospital; independent
18 diagnostic testing facility; primary care outpatient facility; skilled nursing facility;
19 kidney disease treatment center, including freestanding hemodialysis units;
20 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
21 Alaska Veterans' Home administered by the department under AS 47.55; long-term
22 care facility; psychiatric hospital; residential psychiatric treatment center, as defined in
23 AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; and other facilities, places of
24 employment, or offices operated for use by doctors, nurses, surgeons, chiropractors,
25 physical therapists, physicians, psychiatrists, or dentists or other professional health
26 care providers to provide health care;

27 * **Sec. 8.** AS 18.07.021, 18.07.031, 18.07.035, 18.07.041, 18.07.043, 18.07.045, 18.07.051,
28 18.07.061, 18.07.071, 18.07.081, 18.07.091, 18.07.101, 18.07.111; AS 21.86.030(c)(1);
29 AS 44.64.030(a)(18); and AS 47.80.140(b) are repealed.

30 * **Sec. 9.** Section 4, ch. 275, SLA 1976, is repealed.

31 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 CERTIFICATES OF NEED; APPLICABILITY. The Department of Health and
3 Social Services may not take action on or after the effective date of secs. 1 - 10 of this Act to
4 revoke, enforce, or modify a certificate of need issued to a health care facility before the
5 effective date of secs. 1 - 10 of this Act.

6 * **Sec. 11.** This Act takes effect July 1, 2022.