

**HOUSE BILL NO. 35**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES RAUSCHER, McKay**

**Introduced: 1/19/23**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the certificate of need program for health care facilities; and**  
2 **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7 **\* Sec. 2.** AS 12.55.155(c)(36)(A) is repealed and reenacted to read: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 Family and Community  
2 Services 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 Family and Community 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 Family and Community  
27 Services under AS 47.55; correctional facility owned or administered by the state;  
28 private, municipal, or state facility employing one or more public health nurses; long-  
29 term care facility; psychiatric hospital; residential psychiatric treatment center [,] as  
30 defined in AS 18.20.400(d) [AS 18.07.111] or AS 47.32.900; secure residential  
31 psychiatric treatment center as defined in [UNDER] AS 47.12.990; juvenile detention

1 facility or juvenile treatment facility [,] as those terms are defined in AS 47.12.990; or  
 2 treatment institution as [THAT TERM IS] defined in AS 47.14.990;

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 Family and  
3 Community Services may not take action on or after the effective date of this Act to revoke,  
4 enforce, or modify a certificate of need issued to a health care facility before the effective date  
5 of this Act.

6 \* **Sec. 11.** This Act takes effect July 1, 2024.