

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SL&C 12603

SB

28

SENATE COMMITTEE REPORT

DATE: 4/18/07

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 28

SB 28 LIMIT OVERTIME FOR REGISTERED NURSES

"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."

and recommends:

- be replaced with SCS or CS SB 28 (LTC) (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADMINISTRATION	4/18/07			✓	
DOLWD	10/12/07	✓			
DHSS	12/10/07			✓	
DHSS	12/20/07			✓	
DHSS	12/20/07			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do Not PASS	No REC	AMEND
	Bunde			✓	
	DAVIS	X			
	[unclear]			X	
	[unclear]			X	
CHAIR:		X			

25-LS0212V

Wayne

1/21/08

CS FOR SENATE BILL NO. 28(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR DAVIS

A BILL

FOR AN ACT ENTITLED

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

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

4 *** Section 1. The uncodified law of the State of Alaska is amended by adding a new section**
5 **to read:**

6 **LEGISLATIVE FINDINGS AND INTENT. The legislature finds that**

7 **(1) it is essential that registered nurses and licensed practical nurses providing**
8 **direct patient care be available to meet the needs of patients;**

9 **(2) quality patient care is jeopardized by registered nurses and licensed**
10 **practical nurses who work unnecessarily long hours in health care facilities;**

11 **(3) registered nurses and licensed practical nurses are leaving their profession**
12 **because of workplace stresses, long work hours, and depreciation of their essential role in the**
13 **delivery of quality and direct patient care;**

14 **(4) it is necessary to safeguard the efficiency, health, and general well-being**

1 of registered nurses and licensed practical nurses, and the health and general well-being of the
2 persons receiving care from registered nurses and licensed practical nurses in health care
3 facilities;

4 (5) it is necessary that registered nurses and licensed practical nurses be made
5 aware of their rights, duties, and remedies concerning hours worked and patient safety; and

6 (6) health care facilities should provide adequate and safe nurse staffing
7 without the need for or use of mandatory overtime.

8 * **Sec. 2.** AS 18.20 is amended by adding new sections to read:

9 **Article 4. Overtime Limitations for Nurses.**

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in
11 (c) of this section, a nurse in a health care facility may not be required or coerced,
12 directly or indirectly,

13 (1) to work beyond a predetermined and regularly scheduled shift that
14 is agreed to by the nurse and the health care facility;

15 (2) to work beyond 80 hours in a 14-day period; or

16 (3) to accept an assignment of overtime if, in the judgment of the
17 nurse, the overtime would jeopardize patient or employee safety.

18 (b) Except as provided by (c) of this section, after working a predetermined
19 and regularly scheduled shift that is agreed to by the nurse and the health care facility
20 as authorized by (a)(1) of this section, a nurse in a health care facility shall be allowed
21 not less than 10 consecutive hours of off-duty time immediately following the end of
22 that work.

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

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

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

1 (3) a nurse on duty in overtime status because of an unforeseen
2 emergency situation that could otherwise jeopardize patient safety; in this paragraph,
3 "unforeseen emergency situation" means an unusual, unpredictable, or unforeseen
4 situation caused by an act of terrorism, disease outbreak, natural disaster, or a declared
5 national, state, or local emergency, but does not include a situation in which a health
6 care facility has reasonable knowledge of increased patient volume or inadequate
7 staffing because of some other cause, if that cause is foreseeable;

8 (4) a nurse fulfilling on-call time that is agreed upon by the nurse and a
9 health care facility before it is scheduled;

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

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

16 (7) the first hour on overtime status when the health care facility is
17 obtaining another nurse to work in place of the nurse in overtime status.

18 **Sec. 18.20.410. Health care facility complaint process for overtime work**
19 **by nurses.** A health care facility shall provide for an anonymous process by which a
20 patient or a nurse may make a complaint about staffing levels and patient safety that
21 relate to overtime work by nurses and to limitations on overtime work by nurses under
22 AS 18.20.400.

23 **Sec. 18.20.420. Enforcement, offenses, and penalties.** (a) The commissioner
24 shall administer AS 18.20.400 - 18.20.449 and adopt regulations for implementing and
25 enforcing AS 18.20.400 - 18.20.449.

26 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.449 must be filed
27 with the commissioner within 30 days after the date of the alleged violation. The
28 commissioner shall provide a copy of the complaint to the health care facility named
29 in the filing within three business days after receiving the complaint.

30 (c) If the commissioner finds that a health care facility has knowingly violated
31 an overtime provision of AS 18.20.400 - 18.20.449, the following civil penalties shall

1 apply:

2 (1) for a first violation of AS 18.20.400 - 18.20.449, the health care
3 facility shall receive a reprimand;

4 (2) for a second violation of AS 18.20.400 - 18.20.449 within 12
5 months, the health care facility shall receive a reprimand and shall be assessed a
6 penalty of \$500;

7 (3) for a third violation of AS 18.20.400 - 18.20.449 within 12 months,
8 the health care facility shall receive a reprimand and shall be assessed a penalty of not
9 less than \$2,500 but not more than \$5,000;

10 (4) for each violation of AS 18.20.400 - 18.20.449 after a third
11 overtime violation of AS 18.20.400 - 18.20.449 within 12 months, the health care
12 facility shall receive a public reprimand and shall be assessed a penalty of not less than
13 \$5,000 but not more than \$25,000.

14 (d) As an employer, a health care facility violates an overtime provision of
15 AS 18.20.400 - 18.20.449 "knowingly" when the facility is either aware that its
16 conduct is of a nature prohibited by the overtime provision or aware that the
17 circumstances described in the overtime prohibition exist; however, when knowledge
18 of the existence of a particular fact is required in order to establish that the violation
19 was knowing, that knowledge exists when the facility is aware of a substantial
20 probability of its existence, unless the facility reasonably believes it does not exist.

21 **Sec. 18.20.430. Prohibition of retaliation.** A health care facility may not
22 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
23 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.449
24 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.449.

25 **Sec. 18.20.440. Enforcement against prohibition of retaliation.** The
26 commissioner shall investigate every complaint alleging a violation of AS 18.20.430,
27 and, within 90 days after the complaint's date of filing, provide to the complainant, the
28 office of the attorney general, and the health care facility named in the complaint a
29 written determination as to whether the health care facility violated AS 18.20.430. If
30 the commissioner finds a violation of AS 18.20.430, the commissioner shall request
31 that the office of the attorney general represent the department and the complainant

1 and obtain from the health care facility all appropriate relief, including rehiring or
2 reinstatement of the complainant to the complainant's former position with back pay.

3 **Sec. 18.20.445. Report requirements.** A health care facility shall file with the
4 division of labor standards and safety, Department of Labor and Workforce
5 Development, a semiannual report. The report for the six-month period ending June 30
6 must be filed before the following August 1, and the report for the six-month period
7 ending December 31 must be filed before the following February 1. The report must
8 include, for each nurse employed by the health care facility or under contract with the
9 health care facility, the number of overtime hours worked, the number of overtime
10 hours that were mandatory, the number of overtime hours that were voluntary, the
11 number of on-call hours, the number of on-call hours that were mandatory, and the
12 number of on-call hours that were voluntary.

13 **Sec. 18.20.449. Definitions.** In AS 18.20.400 - 18.20.449,

14 (1) "commissioner" means the commissioner of labor and workforce
15 development;

16 (2) "health care facility" means a private, municipal, state, or federal
17 hospital; psychiatric hospital; independent diagnostic testing facility; residential
18 psychiatric treatment center; skilled nursing facility; kidney disease treatment center
19 (including freestanding hemodialysis units); intermediate care facility; ambulatory
20 surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by
21 the Department of Health and Social Services under AS 47.55; correctional facility
22 administered by the Department of Corrections or the Department of Health and
23 Social Services; private, municipal, state, or federal facility employing one or more
24 public health nurses; long-term care facility; or primary care outpatient facility;

25 (3) "nurse" means an individual licensed to practice registered nursing
26 or practical nursing under AS 08.68 who provides nursing services through direct
27 patient care or clinical services and includes a nurse manager when delivering in-
28 hospital patient care;

29 (4) "on-call" means a status in which a nurse must be ready to report to
30 the health care facility and may be called to work by the health care facility;

31 (5) "overtime" means the hours worked in excess of a predetermined

1 and regularly scheduled shift that is agreed to by a nurse and a health care facility.

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

4 APPLICABILITY. The first report required to be filed under AS 18.20.445, enacted in
5 sec. 2 of this Act, shall be filed before February 1, 2009, for the period July 1, 2008, through
6 December 31, 2008.

7 * Sec. 4. AS 18.20.445, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
8 July 1, 2008.

9 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2009.

Changes from CSSB 28 (HES) to DRAFT CSSB 28 L&C , (LS0212V)

- **Page 2, line 24. Subsection c sets out exceptions to the limitations on overtime. A new paragraph (1) includes nurses at an occasional school event in these exceptions.**

This amendment was suggested by nurses, who pointed out that nurses often accompany field trips that last longer than normal working days.

- **Page 4, line 25. A new section of statute (AS 18.20.440) spells out an enforcement mechanism for the prohibition against retaliation set out in AS 18.20.430. Under this section, the commissioner has 90 days to determine whether a facility has violated this statute. If the determination is yes, the commissioner must request that the office of attorney general represent the department and the complainant and seek all appropriate relief.**

The Department of Labor and Workforce Development suggested this amendment in order to provide clear authority to the Department to investigate and act on allegations of violations. This provision is similar to that for violations of occupational safety and health.

- **Page 5, line 4. New language specifies that the report required by AS 18.20.445 is to be submitted to the division responsible for enforcement. Earlier drafts sent the report to the research and analysis section of the department.**

The Department requested this amendment.

- **Lastly, all effective dates have been updated.**

Senate Bill 28 LIMIT OVERTIME FOR REGISTERED NURSES
Changes from the original bill to HES version:

- **Page 2, line 8. Section 2 (AS 18.20.400) has been amended to require 10 consecutive hours of off-duty time immediately following a predetermined and regularly scheduled shift. The original bill required 12 consecutive hours of off-duty time following a regular shift that could not exceed 12 consecutive hours, with certain exceptions. The explicit prohibition against shifts beyond 12 consecutive hours has been dropped in the CS. The net effect of this change provides hospitals and health care facilities greater management flexibility up to a maximum of 14 consecutive hours.**
- **Page 2, line 28, In subsection (c) a new paragraph (2) has been added exempting nurses working in a medevac situation from the limitations on nursing overtime.**
- **Page 3, line 1. The definition of "unforeseen emergency situation" contained in paragraph (3) has been amended by deleting "or other act of God", adding "or national, state, or local emergency", and rewriting the phrase at the end of this definition to clarify that it does not include " a situation in which a health care facility has reasonable knowledge of increased patient volume or inadequate staffing because of some other cause, if that cause is foreseeable." The new definition tracks with the language in the proposed federal legislation.**
- **Page 3, beginning on line 23, the offenses and penalties section. The original bill required the payment to a nurse required to work in violation of the overtime limitations three times the nurse's hourly compensation under a first, second, third or subsequent violation. At the request of the Alaska Nurses Association, the requirement to pay any penalty pay to a nurse in the case of a violation has been eliminated from the CS. The bill is intended to address a public safety problem, not increase compensation for nurses.**
- **The definition of "knowingly" has been deleted from the definitions in the CS. Tom Obermeyer would need to speak to this change - I recall it may be because there is a definition in existing law.**

Alaska State Legislature

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Senator Bettye Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Senate Bill 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.”

Sponsor Statement

SB 28, hereafter also to be known as “The Alaska Safe Nursing and Patient Care Act,” prevents 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.

Too often Alaska’s nurses are overworked, underpaid, and undervalued. This bill will improve the lives of nurses and their families and enhance the quality of patient care in communities across the state. It will let nurses decide if they can provide their same quality care while working overtime. SB 28 strictly limits the use of mandatory overtime for nurses to situations in which an official state of emergency is declared by federal, state or a local government, or other stated exceptions. It does, however, allow nurses to work overtime voluntarily when they feel they can continue to provide safe, quality care.

This legislation also protects nurses from discrimination and retaliation by employers who continue to force them into working hours beyond what they believe safe for quality care. SB 28 requires that health care facilities monitor, document, and report overtime semiannually and face penalties for knowing violations.

Faced with nursing shortages nationwide, Alaska needs to encourage and support nurses to enter and stay in the profession. SB 28 is a long overdue step in that direction.

Alaska State Legislature

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Senator Bettye Davis

Senate Bill 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."

Explanation of Committee Substitute

1. Relocates from section (a) to (b) the provision that requires a nurse to have 10 (not 12) consecutive hours off-duty immediately after working a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care facility (except as provided in (c)).
2. Creates a new section (c) laying out the exceptions to section (a), changing the time off from 12 to 10 hours.
3. Relocates the definitions of "unforeseen emergency situation" and "knowingly" closer to the text in which they appear.
4. Sets out in a separate section the requirement that a health care facility have in place an anonymous complaint process limited to nurse-related and nurse-initiated complaints connected with mandatory overtime.

The Director of the And Yunnan of Labor
and Commerce Committee,

My name is Susan Betty. I have been a
nurse for 12 years now 1 1/2 years in Alaska.
I am concerned about nursing work. It is
a very demanding profession. After 12 hours of
nursing a day the fatigue level increased
I was in performing nursing duties.

For patient safety I am in support of SB 28.

I have have worked 16 hours in a row and have
been tired and feel it is unsafe for patients. Also
working more than 3 twelve hour shifts a week is
difficult and increases fatigue and can cause
mistakes in patient care. Nurses should have the
choice to work overtime not be forced into it by the
employer.

Nurses have demanding duties and when forced
to work unstaffed and overtime causes increase
stress and possibly less focus on the job. Please
support this important piece of legislation and
protect our patients and the nurses caring for
them. Thank you for your time and consideration.

Sincerely,

Susan Betty RN

Senate Bill 28

Senator Johnny Ellis, Chair,
Senator Gary Stevens
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

My name is Debbie Thompson, I am a Registered Nurse certified in Operating Room Nursing and I am the president of the Alaska Nurses' Association. In this role I act as a spokesperson for not only the public safety at large but just as importantly for the nurses of Alaska themselves.

When this bill was heard in HESS committee nurses testified on the various patient safety issues that this poses for their patient's safety and excellent patient care and safe nursing practices. I am here to speak out for the nurses themselves as they will always put the patient care and safety above their own safety. Nurses will put themselves and their safety after those of their patients.

During testimony at the HESS committee testimony showed that the numbers of errors extrapolate with the number of hours worked and show a spiked increase after 12.5 hours. Nursing errors have the potential to be fatal and that impacts both you and me. It could be either of us or someone that we love, do we really want nurses making life or death decisions when they are exhausted?

We as a society have recognized that extended work hours are not good for those who fly planes, drive trucks, trains etc. Why would we as society not want to step up and look at the risks we put ourselves and our loved ones in when they are seeking nursing care of any kind? When nurses make errors, they do or can do fatal or potentially fatal harm to another human being and could lose their license to practice nursing and earn a living for themselves and their families. This impacts society as a whole. Ethical and professional issues of risk management dictate that we ensure our nurses the right to adequate rest for the interest of public safety.

SB28 is not a condition of bargaining, not all nurses are represented by unions. This is not a benefit or a wage issue. With the 11 different states already adapting legislation to ban mandatory overtime we as a people need to look at the reasons why and make decisions that will impact all Alaskans and their healthcare administration. As we speak there are 13 other states looking at adapting legislation that would limit the number of consecutive hours a nurse can work.

At a national level, when states have enacted mandatory overtime legislation, facilities have chosen to implement mandatory call. Mandatory call is the extension of hours that nurses have to be available to cover hours that are not staffed, or not adequately staffed. In this time of nursing shortages, it is sometimes cheaper to extend hours of staff that you have rather than trying to unsuccessfully recruit employees for positions that unfulfilled. This extends the hours of availability of nurses up to 24 hours or more in some cases. This bill would ensure that nurses would receive 10 hours of mandatory rest after working 14 consecutive hours. We need not look any further than the national legislation that has been enacted across different states for the number of hours that interns and residents can work and apply the same general principles to RNs. Requiring down time between shifts for adequate rest and sustenance of health care workers makes common sense and helps to protect you and your loved ones.

Do we really believe that not addressing this issue will fix the nursing shortage? Nurses are a median age of approximately 46+ years old, with the manual demands on a nurse classifying their job as heavier than a labor, it will serve to chase nurses away from the profession and put all of us in the position to be chasing our tails trying to correct an already national problem. As we as nurses age, we cannot nor do we want to put ourselves and our own physical well being at risk. We need to be focusing on how we can retain nurses in nursing, not increase the numbers that we chase away from nursing. This bill is about safe nursing practices that will in the long run protect the public, patients and nurses themselves.

If we do not look at the protection of the nurses, who will advocate for the protection of you or your loved one in your time of need? With this in mind, I urge each of you to vote for moving this bill through the legislative process as quickly as possible. If you any questions do not hesitate to contact me and I will be happy to address them.

**Thank you
Debbie Thompson, BSN, RN, CNOR
President, Alaska Nurses Association
2922 Yale Drive
Anchorage, AK 99508
907-278-1070**

Subject: Senate Bill 28**Date: Monday, April 30, 2007 8:58 AM****From: Paul and Lanet Mordini <lani1031@mtaonline.net>****To: Senator_Johnny_Ellis@legis.state.ak.us****Cc: mshickey@gci.net**

Dear Senator Ellis,

My name is Paul Mordini, I am a constituent of District 17. I am a Registered Nurse serving the state at the Alaska Psychiatric Institute for the last 2.5 years. Before that, I served 20 years in the Air Force as a Nurse Corp Officer. I am writing to express my support for Senate Bill 28, currently in committee. I am in support of this Bill. I have been forced to work 8 hours overtime, usually a 16.5 hour work day, drive home to Eagle River, and get up and do it again in less than 8 hours. I can tell you it is exhausting and I feel the effects all week. Once I only received a 10 minute notice that I had to work overtime. I remember the first time this happened I made a medication error. There are plenty of statistics and research to indicate nurses are at risk for errors, may harm patients, or be harmed by patients because of fatigue from working 16 hours at a demanding job. Usually, I volunteer to work as volunteering to work puts me at the bottom of the mandatory overtime list and gives me a measure of control over my life. I have 4 active daughters and they are involved in many sports and church activities that demand my time.

Patients should not have to worry about nurses making errors in judgment when administering medications because they are on their second straight shift. Nurses should not be forced to work mandatory overtime. It's an unsafe and bad practice. Many nurses I know have moved on from API because of this practice. Additionally, to those that propose that this bill is unnecessary, I refer to states like New Jersey, Texas, California, and Washington that have already passed this bill. What of their regulatory burdens? They saw this as more important. The statistics they refer to are from an informal and voluntary survey of Alaska medical facilities, with many hospitals not even responding or understanding the question. API keeps statistics on mandatory and voluntary overtime as well as medication error rates. Look for yourself at the two on their Webpage: <http://www.hss.state.ak.us/dbh/API/pdf/Dashboard%2011-6-06.pdf> <<http://www.hss.state.ak.us/dbh/API/pdf/Dashboard%2011-6-06.pdf>> The medication error rate is at times, QUADRUPLE the national rate. Need more be said? At a minimum, this practice should be stopped at API.

My other point sir is that in my twenty years in the Air Force as a nurse, I never worked a "double shift." It was understood that such a practice was unsafe and would decrease moral and effectiveness. When I worked as a flight nurse, we followed strict regulations (laws) that dictated how many hours we could be on duty and then how much rest was required. If nurses are going to be forced to work 16 or more hours, then they at least deserve time to rest and recover.

I support your efforts and representation in the legislature. I hope I have conveyed my thoughts on this and it will help you when it comes up in committee. I would be happy to answer any questions you have. Thank You

Sincerely,

Paul Mordini, RN
19517 Pribilof Loop
Eagle River, AK 99577

907-301-4776

Subject: SB 28 Limiting Mandatory Overtime for RN's

Date: Tuesday, May 1, 2007 11:23 PM

From: bkgettys <bkgettys@gci.net>

To: Senator_Johnny_Ellis@legis.state.ak.us, Senator_Gary_Stevens@legis.state.ak.us, More...

Cc: dao@aknurse.org, mshickey@gci.net, Senator_Fred_Dyson@legis.state.ak.us

Dear Senator Ellis and Honorable Senators of the Senate Labor and Commerce Committee.

My name is Kathleen A. Gettys and I am a registered nurse on the Progressive Care Unit at Providence Alaska Medical Center. I hold the office of President for the Providence Registered Nurses Bargaining Unit. I was disappointed not to be given the opportunity for my voice to be heard at the Senate Labor and Commerce Committee hearing on April 26th, 2007 regarding SB 28 and the use of mandatory overtime for registered nurses in Alaska. I was unable to be there in person secondary to responsibilities associated with the bargaining unit's commitment to patient safety.

Today, overtime whether voluntary or mandatory is the most common method facilities use to cover staffing insufficiencies. The Institute of Medicine (IOM) has estimated as many as 98,000 hospitalized Americans die each year as a result of errors in their care. The IOM illustrated that mandatory overtime is a serious contributing factor to medical errors. The IOM's *Save a 100,000 Lives Campaign* stated, "All overtime by nurses should be eliminated." A Study by Health Affairs in July of 2004 revealed that the likelihood of making an error was three times higher when RN's worked shifts lasting 12.5 hours or more.

RN's at PAMC recognize the potential hazards of long working hours. We are currently in the beginning of the arbitration phase in order to settle a dispute pertaining to RN's who are not receiving their contractual breaks and lunches. Every time RN's who work twelve-hour shifts do not receive their allotted meal periods they enter in to a 12.5-hour work day. Again, 12.5 hours is correlated with the increased likelihood of making an error. The question has been posed, "Who will care for the patients if overtime cannot be mandated?" Time and time again RN's are forced to choose between themselves and the safety of their patients. The reality is we do not abandon our patients or our co-workers. RN's will not leave their posts if we feel our patients will not be protected.

Unlike many other industries where public safety is a concern, healthcare is exempt from federal regulations that limit the use of overtime. If we do not want a pilot flying a plane for more than twelve hours, why would you want a nurse to care for you when long working hours have clearly illustrated the likelihood of a medical error? RN's are compared to pilots monitoring their instruments. "Nurses constitute an around the clock surveillance system and are responsible for detection and prompt intervention when a patients condition deteriorates" (Alken, Journal of American Medical Association, 2002).

I have heard the question...How many times does mandatory overtime occur versus did the RN voluntarily agree to overtime? Unfortunately, there are no studies involving RN's that account for the use of voluntary overtime. It only takes one time of an extended work shift to increase the likelihood of making an error.

I have heard that some institutions believe SB 28 is the union just "posturing for power." I am proud to be a union nurse, however, it is **NOT a union issue, but rather a PATIENT SAFETY issue**. I am a nurse first. If I stepped out of the union leadership role, I would still carry the torch to eliminate mandatory overtime for RN's. Strictly limiting mandatory overtime for nurses is a critical

step in improving the quality of healthcare for Alaskans and reducing the number of medical errors.

As members of the Senate Labor and Commerce Committee, would your constituents support a practice such as mandatory overtime or long working hours that jeopardizes their opportunity to receive safe and quality healthcare?

I would think that any institution that delivers care to Alaskans should recognize the relationship between extended duty hours and patient safety. I urge Alaska State legislators to support SB 28 and place public safety first concerning the use of mandatory overtime for RN's.

Respectfully,

Kathleen A. Gettys, RN, BSN, BA

President, Providence Registered Nurses Bargaining Unit

Subject: FW: SB 28
Date: Saturday, April 28, 2007 6:37 PM
From: Senner Family <senfam@acsalaska.net>
Reply-To: senfam@acsalaska.net
To: 'Caren Robinson' dcc@alaska.net, 'Mark Hickey' mshickey@gci.net

Senner Family

P.O. Box 102264

Anchorage, AK 99510

907.243.8044

senfam@acsalaska.net <mailto:senfam@acsalaska.net>

-----Original Message-----

From: Sen. Johnny Ellis [mailto:Senator_Johnny_Ellis@legis.state.ak.us]
Sent: Saturday, April 28, 2007 4:11 PM
To: senfam@acsalaska.net
Subject: RE: SB 28

Thx for your msg. We are working though the important issues involved in this bill.

From: Senner Family [mailto:senfam@acsalaska.net]
Sent: Thursday, April 26, 2007 6:44 AM
To: Sen. Johnny Ellis
Subject: SB 28

Dear Senator Ellis: SB 28, which sets limits on how many consecutive hours a nurse can work, is being heard before your committee today. I hope you will give this bill your full support.

The demand for healthcare services is increasing in Alaska for many reasons. The number of nurses with the needed types of specialty training available to meet that demand is not increasing at the same rate. This has lead to hospitals increasing their requests for nurses to work longer hours.

SB 28 protects the patients by making sure the people caring for them are not exhausted, it protects the nurses from unreasonable demands from their employers, and in the end protects the number of nurses practicing in Alaska. If nurses have too many unreasonable demands placed on them then they will leave the profession. Patricia Senner

Senner Family

P.O. Box 102264

Anchorage, AK 99510

907.243.8044

senfam@acsalaska.net <mailto:senfam@acsalaska.net>

5-2-2007

Dear Senator Ellis and members of Labor and
Commerce committee,

My name is Donna Phillips. I am
a registered nurse for the past 28 years.
I have spent the past 14 years in
Alaska working in an Anchorage
hospital critical care unit.

I am in strong support of SB 28.
I believe this is important legislation
that will protect patient from
potential error that can be made
when RN's work in excess of
14 hours. I have done my
share of overtime to assist hospital
meet patient care needs over the
past 28 years. I can tell you
there is no way that I am as
sharp and alert to changes in
patients status in the 14th hour
as I am in the beginning of the
day.

There are challenges that are
facing our nations health care system.

My goal has always been to work for patient safety. Using mandatory overtime and extended duty time will be a deterrent to keeping RN's in the workforce as well as recruiting new nurses to the profession. The cost of training a new critical care RN is about \$60,000. It would be great if we could keep these nurses in the workforce. When I started in nursing, RN's would stay working in the hospital about 5 years. I believe we could keep up with the demand at that time because of the number of graduating RN's. I appreciate that NAA is trying to increase the number of graduates, but we also need to work on retaining nurses at the bedside.

Please support this very important legislation and protect the citizens of the State of Alaska. Thank you for the work you do.

Sincerely,
Donna Phillips, RN

Subject: SB 28
Date: Wednesday, April 25, 2007 8:15 PM
From: donnaphill@acsalaska.net
To: Senator_Con_Bunde@legis.state.ak.us

Dear Senator Bunde,

I am sending you a brief note regarding SB 28. I am still in support of this bill, but I am scheduled to work 12 hours tomorrow, so unable to testify. I think I heard you correctly at the Alaska Nurses Association reception in Juneau last month that you could see the value of limiting duty time for RN's, as this is restricted to 8 hours for private pilots. So, I hope we will be able to answer any other questions you may have regarding the value and need for this legislation. As a 28 year RN, all my years spent with hospitalized critically ill people, I have done my share of overtime. I can tell you that at the end of my 12 hours, I am in no shape to make anymore critical decisions that someone's life may depend on. Fatigue contributes to errors that occur for hospitalized patients.

As you may remember, I work under a collective bargaining agreement and it is my belief that patients should not have to think about how effective the nurses were at keeping mandatory overtime and extended duty time out of the contract when they enter a hospital.

I will listen to the committee hearing on Friday, but know that I am available to answer any questions that you may have.

Thanks,
Donna Phillips, RN
Girdwood, AK
H: 907-783-2041
C: 907-830-5333

No virus found in this outgoing message.

Checked by AVG Free Edition.

Version: 7.5.463 / Virus Database: 269.6.1/776 - Release Date: 4/25/2007 12:19 PM

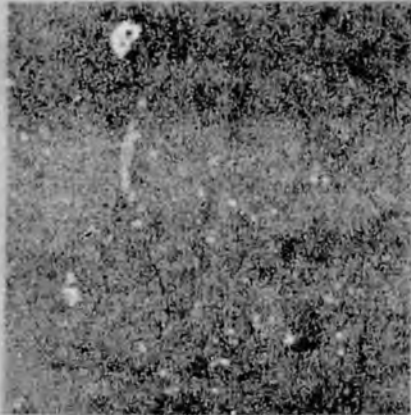
Subject: SB 28

Date: Saturday, April 14, 2007 5:49 PM

From: Lisa Wahl-Hermosillo <lisam@acsalaska.net>

To: Senator_Bettye_Davis@legis.state.ak.us, Senator_Bettye_Davis@legis.state.ak.us

Cc: mshickey@gci.net



April 14, 2007

Dear Senator Bettye Davis,

Thank you for supporting nurses in Alaska with the safety and efficacy necessary for public health.

Primary prevention and health promotion means intervening at the lowest level possible, to prevent problems from happening in the first place, such as immunizations and safety belts. Requiring down time between long shifts for adequate rest and sustenance of health care workers is good common sense. People who are driving cars and overly tired are proven to be as impaired as the inebriated driver. Tired nurses forced to work beyond their capacity are just as problematic. Ethical and professional issues of risk management dictate that we ensure our nurses the right to rest, in the interest of public safety.

I am an emergency department nurse. Life and death is the norm, not the exception, multiple times daily. We are a proud and driven lot, willing to face anything at any time to save lives. At the end of a good day (12.5 hour shifts), with a good night's sleep, we get up and do it again, and again, and again. The emotional, mental, and physical exhaustion is wearing. I wore a pedometer to work for a while, and found I average 12-14 miles daily. I have been hit, spit on, urinated on, kicked, fallen on, bled on, defecated on, cursed, felt up, ignored, loved, appreciated, and blessed. Babies have died in my arms. Homeless people beg me not to turn them out into the subzero night. Addicts come to us as their last hope. Body parts in bags are carried in by their owners, hoping we can reattach them. Mothers are miscarrying. Some days I feel like the whole world is having chest pains! We need our breaks to keep the cloak of compassion from falling to the ground, a burned out memory.

Please let me know who else would be interested in my earnest support of this fundamental legal guide to positive outcomes.

Mrs. Lisa Wahl-Hermosillo, RN, BSN, MSN, ANP, FNP

Past secretary, Alaska Nurse Practitioners Association

2908 Lily St. 6A

Anchorage, AK 99508

lasm@acnaska.net

Subject: senate bill 33
Date: Saturday, April 14, 2007 2:47 AM
From: carol goss <carolgoss@yahoo.com>
To: mshickey@gci.net

I sent a e-mail to Betty Davis in support of Senate Bill 28. I forgot to send a copy to you. Basically I stated that I am a nurse at API and have been forced to work 16 hour shifts. This practice is unsafe for patients and staff. It is also a practice being used daily at API. I also mentioned that I listened to the hearing on TV last week and found it disconcerting that the question "Has there been a lawsuit" kept coming up. Does there have to be a lawsuit before and unsafe practice is stopped? Anyway I feel strongly about this bill. Thank you, Carol Widman. (907) 333-8797.

Ahhh...imagining that irresistible "new car" smell?

Check out new cars at Yahoo! Autos. <http://us.rd.yahoo.com/evt=48245/*http://autos.yahoo.com/new_cars.html;_ylc=X3oDMTE1YW1jcXJ2BF9TAzk3MTA3MDc2BHNIYwNtYWlscGFncwRzbGsDbmV3LWNhcnM->>

Subject: Senate Bill 28**Date: Saturday, April 14, 2007 7:49 PM****From: Tara Orley <sorenorley@gci.net>****To: Senator_Bettye_Davis@legis.state.ak.us****Cc: Senator_Lesil_McGuire@legis.state.ak.us, mshickey@gci.net**

Dear Senator Davis,

I was encouraged and excited when I saw Senate Bill 28 that you are sponsoring. I certainly hope you will continue to support this much needed bill.

I would like to share with you why this bill is so important to the safety of Alaskans who are in need of the services of one of Alaska's many fine hospitals. I have worked as an RN in the acute care setting for the past 28 years, with 25 of those at the same hospital in Alaska. Over that time I have seen an increasing number of excellent nurses leave the profession due to excessive long hours which jeopardize the safety of the patients and have the secondary effect of burnout by the nurses and a loss of quality of life for the nurses and their families. Alaska is already facing a nursing shortage and bills like this are needed to help reduce the shortage since it is obvious self regulation by hospitals is not dealing with the issue of mandatory overtime. In the critical care settings where I have worked, I have seen the hospitals continue to reduce the number of nurses they have scheduled for a shift and when the already overextended nurses are unable to complete all of their duties in their scheduled shift they are forced to work overtime under great pressure. When nurses are rushed and fatigued from working too many hours they are prone to make mistakes. These may range from giving the wrong medication to missing a critical change in status, all of which can lead to severe negative consequences for the patient. I am convinced that the hospitals will not truly try to deal with this problem until they are forced by bills like the one you are sponsoring. No one wants a loved one to be in a hospital setting being cared for by a nurse who has been on duty for 15 hours straight while at the same time trying to take care of yet other critical patients. I am sure you do not. Most nurses are in the profession because they love what they do and are very conscientious. They do not want to give their patients substandard care, but when you have been working for 15 hours straight on a dead run all day, all the dedication in the world may not prevent this overly fatigued nurse from making a mistake that will harm someone's loved one. Because they are so conscientious and concerned for the safety of their patients they come to the conclusion that this problem is not going to be fixed and the only way they can keep their sanity is to leave the very profession they love so much. What a waste for someone, so well trained, with so many years of experience, so very dedicated and devoted to leave nursing. I see continually increasing numbers of nurses in my area leaving the profession mainly as a result of mandatory overtime and forcing nurses to work when it is unsafe to do so.

There is no doubt in my mind that the hospitals will try to get you to change your mind. They will come up with all sorts of reasons why this is a bad bill, but in the end they will all just be excuses. If you give in to these excuses, hospitals will continue these unsafe practices and still fail to understand why so many hard working, diligent nurses are leaving the profession. Please continue your sponsorship of Senate Bill 28.

Very truly yours,

Waltara Orley RN, BSN, CCRN

Dana Owen

From: Sen. Johnny Ellis
Sent: Wednesday, May 02, 2007 10:31 AM
To: bkgettys
Subject: RE: SB 28 Limiting Mandatory Overtime for RN's

We are working on the bill. Thx for sharing your experiences.

From: bkgettys [mailto:bkgettys@gcl.net]
Sent: Tuesday, May 01, 2007 11:24 PM
To: Sen. Johnny Ellis; Sen. Gary Stevens; Sen. Bettye Davis; Sen. Lyman Hoffman; Sen. Con Bunde
Cc: dao@aknurse.org; mshickey@gcl.net; Sen. Fred Dyson
Subject: SB 28 Limiting Mandatory Overtime for RN's

Dear Senator Ellis and Honorable Senators of the Senate Labor and Commerce Committee;

My name is Kathleen A. Gettys and I am a registered nurse on the Progressive Care Unit at Providence Alaska Medical Center. I hold the office of President for the Providence Registered Nurses Bargaining Unit. I was disappointed not to be given the opportunity for my voice to be heard at the Senate Labor and Commerce Committee hearing on April 26th, 2007 regarding SB 28 and the use of mandatory overtime for registered nurses in Alaska. I was unable to be there in person secondary to responsibilities associated with the bargaining unit's commitment to patient safety.

Today, overtime whether voluntary or mandatory is the most common method facilities use to cover staffing insufficiencies. The Institute of Medicine (IOM) has estimated as many as 98,000 hospitalized Americans die each year as a result of errors in their care. The IOM illustrated that mandatory overtime is a serious contributing factor to medical errors. The IOM's *Save a 100,000 Lives Campaign* stated, "All overtime by nurses should be eliminated." A Study by Health Affairs in July of 2004 revealed that the likelihood of making an error was three times higher when RN's worked shifts lasting 12.5 hours or more.

RN's at PAMC recognize the potential hazards of long working hours. We are currently in the beginning of the arbitration phase in order to settle a dispute pertaining to RN's who are not receiving their contractual breaks and lunches. Every time RN's who work twelve-hour shifts do not receive their allotted meal periods they enter in to a 12.5-hour work day. Again, 12.5 hours is correlated with the increased likelihood of making an error. The question has been posed, "Who will care for the patients if overtime cannot be mandated?" Time and time again RN's are forced to choose between themselves and the safety of their patients. The reality is we do not abandon our patients or our co-workers. RN's will not leave their posts if we feel our patients will not be protected.

Unlike many other industries where public safety is a concern, healthcare is exempt from federal regulations that limit the use of overtime. If we do not want a pilot flying a plane for more than twelve hours, why would you want a nurse to care for you when long working hours have clearly illustrated the likelihood of a medical error? RN's are compared to pilots monitoring their instruments. "Nurses constitute an around the clock surveillance system and are responsible for detection and prompt intervention when a patients condition deteriorates" (Aiken, Journal of American Medical Association, 2002).

I have heard the question...How many times does mandatory overtime occur versus did the RN voluntarily agree to overtime? Unfortunately, there are no studies involving RN's that account for the use of voluntary overtime. It only takes one time of an extended work shift to increase the likelihood of making an error.

I have heard that some institutions believe SB 28 is the union just "posturing for power." I am proud to be a union nurse, however, it is **NOT a union issue**, but rather a **PATIENT SAFETY** issue. I am a nurse first. If I stepped out of the union leadership role, I would still carry the torch to eliminate mandatory overtime for RN's. Strictly limiting mandatory overtime for nurses is a critical step in improving the quality of healthcare for Alaskans and reducing the number of medical errors.

5/2/2007

As members of the Senate Labor and Commerce Committee, would your constituents support a practice such as mandatory overtime or long working hours that jeopardizes their opportunity to receive safe and quality healthcare?

I would think that any institution that delivers care to Alaskans should recognize the relationship between extended duty hours and patient safety. I urge Alaska State legislators to support SB 28 and place public safety first concerning the use of mandatory overtime for RN's.

Respectfully,

**Kathleen A. Gettys, RN, BSN, BA
President, Providence Registered Nurses Bargaining Unit**

For: Lobbyist Mark Hickey – FAXED on May 2, 2007

From: WRONGFULLY TERMINATED – PROVIDENCE HOSPITAL NURSE

**Judy Brame RN BSN – 23.5 years of service to PAMC (NICU and OR)
Terminated for working a 14.75 hour MANDATORY OVERTIME
MANDATORY CALL of 24 hours straight**

**Subject: SENATE BILL 28 for the ALASKA SAFE NURSING AND PATIENT CARE
ACT (placing much-needed limits on the use of MANDATORY overtime/call by hospitals)
AND FORCED ON NURSES TO WORK.**

**Seeking assistance of SENATOR Ellis on Wednesday May 2, 2007 to review my
testimony.**

**I, JUDY BRAME RN, BSN feel so strongly against my FORCED OVERTIME on 10/8/06
That I, had personally sought out legal advice, spoke with the Alaska Board of Nursing
Director Dorothy Fulton RN, MSN, and filed a complaint with the Seattle EEOC on
12/27/06-----in which a CLAIM WAS FILED AGAINST PAMC on 2/20/07.**

**I look forward, to flying to Juneau, and SPEAKING OUT in the legislature regarding my
misfortune for having worked at PAMC for 23.5 years and being terminated for ONE DAY
of mandatory overtime/call.**

**I HAVE A PERFECT WORK HISTORY with NO PATIENT HARM. I have seen the
pattern of dismissing LONG-TERM/HIGHLY SKILLED workers after they have given
years of mandatory overtime and call to PAMC, only to be cheated out of their pensions.**

**So the Human Resource Representative for PAMC on April 26, 2007 was not telling the
truth about nurses staying to work at PAMC with retirement plans, as they have a
history/pattern of terminating people/nurses in line for the Rule of 85. If you don't believe
me see the Anchorage Daily News 6/15/2006 article in the MONEY section front page.
And as of 1/1/2007 PAMC removed the Rule of 85 pension for all NEW hires.**

**My case with the Seattle EEOC will be settled over time, but I am fortunate to have this
opportunity to discuss with you the POOR working conditions for nurses at PAMC,
regarding the forced mandatory overtime/call schedule mandated by the hospital.**

HISTORICAL RESPONSES OF PAMC TO PROBLEMS AT PAMC - IN THE EYES OF THE PUBLIC:

It is of utmost importance, before I cover **MANDATORY OVERTIME/CALL**, to review **HOW PAMC** responds to **ISSUES**, that nurses and other workers have fought so hard against within their institutional walls.

FIRST of all, it is important to recollect, that when PAMC fought against the ability for a **CHARGE NURSE** to be a **UNION** member. PAMC fought this so diligently and long, that it ended up at the Supreme Court **LEVEL OF GOVERNMENT**, and PAMC was told they were **WRONG**.

After, it was determined PAMC lost that battle, they simply changed the **JOB DESCRIPTION** from **CHARGE NURSE** TO **CLINICAL SUPERVISOR**, and added nurse evaluations and other minor functions, to regain the status of a **NON UNION MEMBER** in a power position. So once again PAMC **OUTDID THE LAW**.

THE TESTIMONY OF Mary Stackhouse RN-33 years of nursing background, and a proactive professional nurse for **NURSES RIGHTS**, clearly testified on 4/26/06 regarding the blatant disregard of PAMC to **FOLLOW LABOR LAWS** and provide all nurses **THEIR RIGHT** to be granted a meal break of one half hour, and two fifteen minute breaks in a twelve hour shift.

Nurses in the NICU are forced to **NOT** even have the ability to go to the bathroom. **HOW DOES THIS OCCUR???** PAMC holds up their own voice, ignoring the **LABOR LAWS OF THE GOVERNMENT/UNION CONTRACT**, and simply tells the nurses that they will be charged with "**ABANDONMENT of their patients**" and their **NURSING LICENSE WILL BE REVOKED BY THE ALASKA BOARD OF NURSING!!** Where are the **GOVERNMENTAL OFFICIALS FOR THE STATE OF ALASKA** that need to be protecting the labor laws on the books? If you didn't hear her "cry for help", I can stand up for her, having worked in the PAMC NICU for 14 years, that this expectation by PAMC to have nursing assignments so "unbelievably heavy in load" is a common occurrence. Therefore the fact a nurse cannot even get her breaks as mandated by **LAW** in the State of Alaska, is simply **ANOTHER DISREGARD FOR THE LAW BY PAMC**.

FINALLY, PAMC HAS A **STRONG HISTORY** of removing **LONG-TERM, PENSION (Rule of 85) ELIGIBLE** employee's after years of service to the PAMC institution. **SO**, once again, when the Human Resource Representative clearly stated on 4/26/07 that "nurses continued to work at PAMC and were retiring from PAMC, despite the **MANDATORY OVERTIME/CALL**", it is an outright **LIE**. Many of us, who have

worked hard over the years, have been terminated by PAMC, because they want to withhold our retirement money for their own institution. There are a minimum of TWO EEOC cases on file, and all of us are patiently waiting, to see justice. ONCE AGAIN, PAMC THOUGHT THEY WERE ABOVE LABOR LAWS and have dismissed good employees to cheat them out of their pensions. ANOTHER JOB DESCRIPTION CHANGE by PAMC! However, I provided the necessary information to the EEOC, regarding how poorly trained and educated the new surgical aides were. The safety of all patients was of utmost concern to me.

These are just a few examples of THE PAMC CULTURE OF DISREGARD FOR LABOR LAWS.

PAMC has managers, clinical supervisors, and charge nurses dictating POOR working conditions for nurses. Let me describe some of the PAMC ISSUES:

1-THE TERMS MANDATORY OVERTIME and MANDATORY CALL should be viewed by the public as equivalent to "FORCED EXTRA WORK HOURS". I guarantee you that PAMC is going to try to CONFUSE the terms and conditions to the public as I AM A PERFECT EXAMPLE.

These were the LABOR LAW VIOLATIONS that I encountered and provided to the EEOC.

I WAS TERMINATED FOR WORKING A CALL SHIFT AS A MANDATORY OVERTIME SHIFT and here is my story:

PAMC CALL SHEET listed me for 24 hour call (07:00 10/08/06 to 06:45 10/09/06)

I worked in the operating room on 10/08/06 from (6:44 to 21:24 = 14.75 hours) AND THEN HAD A SCHEDULED REGULAR DAY OF WORK 06:45 to 15:15 on 10/09/06.

TOTAL NUMBER OF HOURS OF WORK REQUIRED = 32.5 hours for 10/08-09/06 as MANDATED BY THE PAMC CALL SHEET AND OR SCHEDULE!

Just imagine working the 32.5 hours straight for two days.

Add in a half hour to get to work and a half hour to get home and you are 15 minutes short of a 16 hour day.

-I was told to come in 15 minutes earlier than what I was scheduled for on the official call sheet. CALL IS ASSIGNED FAIRLY BY A SCHEDULING DELEGATE. Changing the call schedule is NOT up to the supervisor the day before. I was discriminated against

in the fact that I had to do a SCHEDULED DAY of work, that I was not initially scheduled to do. This was in fact = FORCED OVERTIME, and not CALL, as I was working the room, that traditionally the supervisor would work on a Sunday. She changed the rules to meet her needs, due to the high acuity of cases already scheduled for that day, scheduled earlier in the week. And as she was working my 24 hour CALL shift, she sat at the OR DESK, as there were NO emergencies coming in.

-I was told to run a SCHEDULED ROOM - "UNTIL ALL THE CASES THAT WERE SCHEDULED WERE DONE." The 24 hour scrub tech was NOT treated in this fashion.

-Although my supervisor was working my "24 hour call", as soon as she left her "scheduled hours for the day", I became the "24 hour call" nurse, even though I was tied up in a room doing scheduled cases. Other call teams were in room one, and I was really NOT available to do an emergency case of trauma should it arrive, as I was doing a scheduled case. My supervisor LEFT ME working in a room, fully knowing I was a 24 hour "life and limb" CALL nurse!

-I received NO BREAKS/REST PERIOD between 12:30 to 21:10 DUE TO BEING IGNORED by my supervisor, hospital demand, and the inability to abandon my patient during a surgical operation. Almost 9 hours of CONSTANT DEMAND and NO 15 minute pause for those 9 hours of work.

-I asked three times for relief, and was told throughout the day by my supervisor (she only did one case < one hour of work), "YOUR not going home until ALL THE SCHEDULED CASES ARE DONE AND NO MORE ARE COMING!!" The PAMC management works the nurses in the operating room with a high level of intimidation and hostility when it comes to questioning their supervision of POOR WORKING CONDITIONS.

-I asked my supervisor to OPEN another room, as that is how her one case of the day was done, because I got bumped from my scheduled room (originally laser case) to actually having to do an EMERGENCY CASE. So she changed the game plan of my scheduled room, and I had to do the emergency case, with very little notice/communication. Again, the supervisor told me one thing and then I became what I was originally scheduled to do! Which was emergency cases only!!

-I asked that the heart room nurses (4) be called into work to help with the flow of patient care, however she did NOT want to put the hospital on DIVERT, and continued harping at us in the room "that we needed to speed things up, and get these cases done, as we were not leaving until all the cases scheduled were done and no more were coming!!" She herself had NO PROBLEM LEAVING when her scheduled hours of work were completed and did not respond in any manner of communicating how many more cases were left as I was working on patient #5. This supervisor totally ignored my signs of fatigue and pleas for relief.

-I asked and was turned down 3 times for relief.

-Day CALL and Night CALL had come and gone. This is NOT how the 24 hour call is to be utilized. 24 hour call is to be relieved by other call teams (12 hour shifts), and I am to be utilized for their backup for emergencies. I WAS NOT treated in that manner on 10/08/06-as all other call teams were gone, when my case was completed!

-When 4 heart room nurses came in/and left for a cancelled emergency, they all ended up going home within 2 hours or less in the PAMC OR. My supervisor made no attempt to have one of those nurses relieve me, with her knowledge of how many patients were left, and what would happen as the night shift crew came and went, with less than 2 hours of work time, and I was approaching the 14 hour of work.

-At patient (#4) I had been SOBBING with frustration/exhaustion/and feelings of abandonment FROM MY SUPERVISOR—as the WORK CONDITIONS I HAVE DOCUMENTED, FOR THE EEOC, WERE BELOW STANDARDS OF PRACTICE for any nurse trying to PRACTICE in a safe manner in horrible conditions at PAMC.

Although, my team players (anesthesiologist, surgeon, surgical tech) on case 4 saw me apologizing/sobbing for my exhaustion—NO ONE CAME TO MY RESCUE!!

-On case (#5) I was UNABLE TO HELP MOVE A PATIENT who weighed over 300 pounds, as my muscular-skeletal system (PAIN IN MY BACK, LEGS, FEET) was so overworked that day - I COULD NOT EVEN HELP MOVE MY PATIENT!!

-The surgical aides who worked their 12 hour shifts had come and gone and the new noc shift aide that came on duty, was the final straw, that broke my emotional tolerance. THE AIDE IS HIRED BY PAMC TO DO PATIENT TRANSFERS. HE IS STANDING IN THE HALLWAY, PAST ASSISTING ME PUSH THE PATIENT FROM THE HOLDING ROOM INTO THE OR ROOM. INSTEAD OF THE AIDE STAYING TO HELP GET THE PATIENT ON THE OR TABLE, HE LEFT.

***** I PHYSICALLY HAD TO WALK OUT OF THE OR ROOM AND TELL HIM HIS JOB WAS TO ASSIST IN TRANSFERING PATIENTS TO THE OR TABLE!*****

The aides all worked 12 hour shifts or less that day. They do not have the training or experience to function as their job descriptions at PAMC mandate, however they are treated better then the nurses at PAMC. I had documented to the EEOC the POOR WORKING ENVIRONMENT AT PAMC and will not go into detail here, however let it be known that the REGISTERED NURSE AT PAMC HAS NO POWER TO CONTROL POORLY TRAINED ANCILLARY HELP, as many nurses end up doing other health care team members jobs plus their RN duties, which ONLY LEADS to prolonging my CALL HOURS/FORCED OVERTIME, as they are not capable of functioning to the level that surgery demands. AGAIN, previous documentation to the EEOC shows lack of SUPERVISORS/MANAGERS providing nurses with skilled help to function safely.

I am sure every one is familiar with the PAMC MISSION STATEMENT-if not I have a copy they forwarded to me AFTER MY TERMINATION.

THAT DAY 10/08/06

OF FORCED OVERTIME/CALL,

OTHERWISE KNOWN AS "ADDITIONAL WORK HOURS"
TO MEET SCHEDULED HOSPITAL DEMANDS OF WORK

UNDER HORRIBLE WORK SYSTEMS/CONDITIONS AT PAMC

LEFT ME WANTING TO LEAVE THE NURSING FIELD PERMANENTLY.

Today, I am grateful to GOD to have not injured any patients in my 28 years of practice.

I have a 4 year degree from Northwestern University in Chicago, however at this time in My life I now declare the Mission Statement provided by PAMC a LIE- They FIRED ME FOR GIVING GOOD PATIENT CARE, and putting patient needs and hospital demand issues, before myself. GOD WILL BE THE JUDGE OF THIS WRONGFUL TERMINATION SOME DAY, not PAMC!

And as I reflect on my 6 months of unemployment, lack of medical insurance for myself and my son, and lack of funds to give my son for college-----I pray every day to see the justice is served for those of us who upheld standards of the nursing profession, that we have so little control over.

When I graduated in 1979-overtime was rare. When 8 hours went to 10 hours, then onto 12 hours, and now 14 hours????? It is NOT acceptable.

What are any of you THINKING? PLEASE remember one thing-I, Judy Brans RN, DO NOT WANT ANY NURSE TAKING CARE OF ME WHO HAS WORKED OVER THE 12 HOUR LIMIT. I have seen the mistakes made, and our nursing journals are always covering articles with staffing issues/mandatory overtime or call, with relationship to direct fatigue problems or injuries to nurses.

For any of you leaning toward making the 14 hour rule LAW. Good luck when you check into the hospital next time. When the MEDICAL MISTAKE happens to you or your loved one, think of me, as I am just ONE small VOICE fighting against CORPORATE PAMC. If you don't listen to the nurses, you will notice that the CEO has

no trouble writing off your hospital bill, once the medical mistake has occurred. I know, after 12 hours of high demand/critical care nursing duties, I lose my SAFE DECISION making skills, especially when hospitals no longer provide rest periods mandated by law.

I myself, in respect to the previous DIRECTOR OF NURSING (Dorothy Fulton RN, MSN) agree to no more than 10-12 hours of forced overtime/additional work hours - along with your weekly hours. IF THE LEGISLATURE DOES NOT LISTEN TO the STATE OF ALASKA NURSING GOVERNING BODY, THEN I HAVE WASTED MY TIME IN MY EFFORT TO FIGHT FOR PROPER STAFFING FOR SAFE PATIENT CARE.

PAMC and other health care agencies-CEO's, DIRECTORS, MANAGERS, SUPERVISORS you all some day will have very few nurses at the bedside willing to work under such horrible conditions. MY BIGGEST HOPE IS those that want 14 hour exhausted nurses, get these exhausted nurses for themselves when they require nursing care some day.

When PAMC fired me, they did not allow me to fill out an INCIDENT REPORT for my "fatigue level" and a hospital acquired infection that I received that day. So hospitals in general prevent the documentation accumulation for FATIGUE.

You can have my mandatory overtime/call day = FORCED ADDITIONAL WORK HOURS on top of your weekly scheduled hours. The hospital took my job, the ads are in the Anchorage Daily Newspaper, so feel free to apply for my old position, as I don't want those WORK HOURS any longer. ONE LESS GOOD NURSE AT THE BEDSIDE.

Judy Braine

Dana Owen

From: Sen. Johnny Ellis
Sent: Wednesday, May 02, 2007 10:31 AM
To: bkgettys
Subject: RE: SB 28 Limiting Mandatory Overtime for RN's

We are working on the bill. Thx for sharing your experiences.

From: bkgettys [mailto:bkgettys@gci.net]
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Subject: SB 28 Limiting Mandatory Overtime for RN's

Dear Senator Ellis and Honorable Senators of the Senate Labor and Commerce Committee;

My name is Kathleen A. Gettys and I am a registered nurse on the Progressive Care Unit at Providence Alaska Medical Center. I hold the office of President for the Providence Registered Nurses Bargaining Unit. I was disappointed not to be given the opportunity for my voice to be heard at the Senate Labor and Commerce Committee hearing on April 26th, 2007 regarding SB 28 and the use of mandatory overtime for registered nurses in Alaska. I was unable to be there in person secondary to responsibilities associated with the bargaining unit's commitment to patient safety.

Today, overtime whether voluntary or mandatory is the most common method facilities use to cover staffing insufficiencies. The Institute of Medicine (IOM) has estimated as many as 98,000 hospitalized Americans die each year as a result of errors in their care. The IOM illustrated that mandatory overtime is a serious contributing factor to medical errors. The IOM's *Save a 100,000 Lives Campaign* stated, "All overtime by nurses should be eliminated." A Study by Health Affairs in July of 2004 revealed that the likelihood of making an error was three times higher when RN's worked shifts lasting 12.5 hours or more.

RN's at PAMC recognize the potential hazards of long working hours. We are currently in the beginning of the arbitration phase in order to settle a dispute pertaining to RN's who are not receiving their contractual breaks and lunches. Every time RN's who work twelve-hour shifts do not receive their allotted meal periods they enter in to a 12.5-hour work day. Again, 12.5 hours is correlated with the increased likelihood of making an error. The question has been posed, "Who will care for the patients if overtime cannot be mandated?" Time and time again RN's are forced to choose between themselves and the safety of their patients. The reality is we do not abandon our patients or our co-workers. RN's will not leave their posts if we feel our patients will not be protected.

Unlike many other industries where public safety is a concern, healthcare is exempt from federal regulations that limit the use of overtime. If we do not want a pilot flying a plane for more than twelve hours, why would you want a nurse to care for you when long working hours have clearly illustrated the likelihood of a medical error? RN's are compared to pilots monitoring their instruments. "Nurses constitute an around the clock surveillance system and are responsible for detection and prompt intervention when a patients condition deteriorates" (Aiken, *Journal of American Medical Association*, 2002).

I have heard the question...How many times does mandatory overtime occur versus did the RN voluntarily agree to overtime? Unfortunately, there are no studies involving RN's that account for the use of voluntary overtime. It only takes one time of an extended work shift to increase the likelihood of making an error.

I have heard that some institutions believe SB 28 is the union just "posturing for power." I am proud to be a union nurse, however, it is NOT a union issue, but rather a **PATIENT SAFETY** issue. I am a nurse first. If I stepped out of the union leadership role, I would still carry the torch to eliminate mandatory overtime for RN's. Strictly limiting mandatory overtime for nurses is a critical step in improving the quality of healthcare for Alaskans and reducing the number of medical errors.

5/2/2007

As members of the Senate Labor and Commerce Committee, would your constituents support a practice such as mandatory overtime or long working hours that jeopardizes their opportunity to receive safe and quality healthcare?

I would think that any institution that delivers care to Alaskans should recognize the relationship between extended duty hours and patient safety. I urge Alaska State legislators to support SB 28 and place public safety first concerning the use of mandatory overtime for RN's.

Respectfully,

Kathleen A. Gettys, RN, BSN, BA
President, Providence Registered Nurses Bargaining Unit

5/2/2007

CS FOR SENATE BILL NO. 28(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION
BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/18/07
Referred: Labor and Commerce, Finance

Sponsor(s): SENATOR DAVIS

A BILL
FOR AN ACT ENTITLED

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

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

4 *** Section 1. The uncodified law of the State of Alaska is amended by adding a new section**
5 **to read:**

6 **LEGISLATIVE FINDINGS AND INTENT. The legislature finds that**

7 **(1) it is essential that registered nurses and licensed practical nurses providing**
8 **direct patient care be available to meet the needs of patients;**

9 **(2) quality patient care is jeopardized by registered nurses and licensed**
10 **practical nurses who work unnecessarily long hours in health care facilities;**

11 **(3) registered nurses and licensed practical nurses are leaving their profession**
12 **because of workplace stresses, long work hours, and depreciation of their essential role in the**
13 **delivery of quality and direct patient care;**

14 **(4) it is necessary to safeguard the efficiency, health, and general well-being**

1 of registered nurses and licensed practical nurses, and the health and general well-being of the
 2 persons receiving care from registered nurses and licensed practical nurses in health care
 3 facilities;

4 (5) it is necessary that registered nurses and licensed practical nurses be made
 5 aware of their rights, duties, and remedies concerning hours worked and patient safety; and

6 (6) health care facilities should provide adequate and safe nurse staffing
 7 without the need for or use of mandatory overtime.

8 * Sec. 2. AS 18.20 is amended by adding new sections to read:

9 **Article 4. Overtime Limitations for Nurses.**

10 **Sec. 18.20.400. Limitations on nursing overtime.** (a) Except as provided in
 11 (c) of this section, a nurse in a health care facility may not be required or coerced,
 12 directly or indirectly,

13 (1) to work beyond a predetermined and regularly scheduled shift that
 14 is agreed to by the nurse and the health care facility;

15 (2) to work beyond 80 hours in a 14-day period; or

16 (3) to accept an assignment of overtime if, in the judgment of the
 17 nurse, the overtime would jeopardize patient or employee safety.

18 (b) Except as provided by (c) of this section, after working a predetermined
 19 and regularly scheduled shift that is agreed to by the nurse and the health care facility
 20 as authorized by (a)(1) of this section, a nurse in a health care facility shall be allowed
 21 not less than 10 consecutive hours of off-duty time immediately following the end of
 22 that work.

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

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

28 (2) a nurse on duty in overtime status because of an unforeseen
 29 emergency situation that could otherwise jeopardize patient safety; in this paragraph,
 30 "unforeseen emergency situation" means an unusual, unpredictable, or unforeseen
 31 situation caused by an act of terrorism, disease outbreak, natural disaster, or a declared

1 national, state, or local emergency, but does not include a situation in which a health
 2 care facility has reasonable knowledge of increased patient volume or inadequate
 3 staffing because of some other cause, if that cause is foreseeable;

4 (3) a nurse fulfilling on-call time that is agreed upon by the nurse and a
 5 health care facility before it is scheduled;

6 (4) a nurse voluntarily working overtime so long as the work is
 7 consistent with professional standards and safe patient care and does not exceed 14
 8 consecutive hours;

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

12 (6) the first hour on overtime status when the health care facility is
 13 obtaining another nurse to work in place of the nurse in overtime status.

14 **Sec. 18.20.410. Prohibition of retaliation.** A health care facility may not
 15 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
 16 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.449
 17 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.449.

18 **Sec. 18.20.420. Health care facility complaint process for overtime work**
 19 **by nurses.** A health care facility shall provide for an anonymous process by which a
 20 patient or a nurse may make a complaint about staffing levels and patient safety that
 21 relate to overtime work by nurses and to limitations on overtime work by nurses under
 22 AS 18.20.400.

23 **Sec. 18.20.430. Enforcement, offenses, and penalties.** (a) The commissioner
 24 shall administer AS 18.20.400 - 18.20.449 and adopt regulations for implementing and
 25 enforcing AS 18.20.400 - 18.20.449.

26 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.449 must be filed
 27 with the commissioner within 30 days after the date of the alleged violation. The
 28 commissioner shall provide a copy of the complaint to the health care facility named
 29 in the filing within three business days after receiving the complaint.

30 (c) If the commissioner finds that a health care facility has knowingly violated
 31 an overtime provision of AS 18.20.400 - 18.20.449, the following civil penalties shall

1 apply:

2 (1) for a first violation of AS 18.20.400 - 18.20.449, the health care
3 facility shall receive a reprimand;

4 (2) for a second violation of AS 18.20.400 - 18.20.449 within 12
5 months, the health care facility shall receive a reprimand and shall be assessed a
6 penalty of \$500;

7 (3) for a third violation of AS 18.20.400 - 18.20.449 within 12 months,
8 the health care facility shall receive a reprimand and shall be assessed a penalty of not
9 less than \$2,500 but not more than \$5,000;

10 (4) for each violation of AS 18.20.400 - 18.20.449 after a third
11 overtime violation of AS 18.20.400 - 18.20.449 within 12 months, the health care
12 facility shall receive a public reprimand and shall be assessed a penalty of not less than
13 \$5,000 but not more than \$25,000.

14 (d) As an employer, a health care facility violates an overtime provision of
15 AS 18.20.400 - 18.20.449 "knowingly" when the facility is either aware that its
16 conduct is of a nature prohibited by the overtime provision or aware that the
17 circumstances described in the overtime prohibition exist; however, when knowledge
18 of the existence of a particular fact is required in order to establish that the violation
19 was knowing, that knowledge exists when the facility is aware of a substantial
20 probability of its existence, unless the facility reasonably believes it does not exist.

21 (e) In this section, "commissioner" means the commissioner of labor and
22 workforce development.

23 **Sec. 18.20.440. Report requirements.** A health care facility shall file a
24 semiannual report with the section in the Department of Labor and Workforce
25 Development responsible for research and analysis. The report for the six-month
26 period ending June 30 must be filed before the following August 1, and the report for
27 the six-month period ending December 31 must be filed before the following
28 February 1. The report must include, for each nurse employed by the health care
29 facility or under contract with the health care facility, the number of overtime hours
30 worked, the number of overtime hours that were mandatory, the number of overtime
31 hours that were voluntary, the number of on-call hours, the number of on-call hours

1 that were mandatory, and the number of on-call hours that were voluntary.

2 **Sec. 18.20.449. Definitions.** In AS 18.20.400 - 18.20.449,

3 (1) "health care facility" means a private, municipal, state, or federal
4 hospital; psychiatric hospital; independent diagnostic testing facility; residential
5 psychiatric treatment center; skilled nursing facility; kidney disease treatment center
6 (including freestanding hemodialysis units); intermediate care facility; ambulatory
7 surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by
8 the Department of Health and Social Services under AS 47.55; correctional facility
9 administered by the Department of Corrections or the Department of Health and
10 Social Services; private, municipal, state, or federal facility employing one or more
11 public health nurses; long-term care facility; or primary care outpatient facility;

12 (2) "nurse" means an individual licensed to practice registered nursing
13 or practical nursing under AS 08.68 who provides nursing services through direct
14 patient care or clinical services and includes a nurse manager when delivering in-
15 hospital patient care;

16 (3) "on-call" means a status in which a nurse must be ready to report to
17 the health care facility and may be called to work by the health care facility;

18 (4) "overtime" means the hours worked in excess of a predetermined
19 and regularly scheduled shift that is agreed to by a nurse and a health care facility.

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

22 **APPLICABILITY.** The first report required to be filed under AS 18.20.440, enacted in
23 sec. 2 of this Act, shall be filed before February 1, 2008, for the period July 1, 2007, through
24 December 31, 2007.

25 * **Sec. 4.** AS 18.20.440, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
26 July 1, 2007.

27 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2008.

Alaska State Legislature

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Senator Bettye Davis

Senate Bill 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."

Sectional Analysis

Note: As a preliminary matter, this sectional analysis should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents.

Section 1. Adds a temporary law section on legislative findings and intent concerning administration of overtime provisions in the nursing profession.

Section 2. Adds an "Article 4" to AS 18.20, that includes the following sections concerning working hours for nurses:

Sec. 18.20.0400. Subsection (a) prohibits the use of direct or indirect coercion to cause a nurse in a health care facility to:

- (1) "work beyond a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care facility;
- (2) work beyond 80 hours in a 14-day period; or to
- (3) accept an assignment of overtime if, in the judgment of the nurse, the overtime would jeopardize patient or employee safety."

Subsection (b) requires that the nurse shall not have less than 10 consecutive hours of off-duty time immediately following the end of work on a predetermined and regularly scheduled shift agreed to by the nurse and the health care facility.

Subsection (c) lists exceptions to subsection (a) (see below):

Exceptions to subsection (a):

- (1) "a nurse voluntarily working overtime on an aircraft in use for medical transport"
- (2) "a nurse on duty in overtime status because of an unforeseen emergency situation that could otherwise jeopardize patient safety"
- (3) "a nurse fulfilling on-call time that is agreed upon by the nurse and a health care facility before it is scheduled;
- (4) a nurse voluntarily working overtime so long as the work is consistent with professional standards and safe patient care and does not exceed 14 consecutive hours;
- (5) a nurse voluntarily working beyond 80 hours in a 14-day period so long as the nurse does not work more than 14 consecutive hours without a 10-hour break and the work is consistent with professional standards and safe patient care;
- (6) the first hour on overtime status when the health care facility is obtaining another nurse to work in place of the nurse in overtime status."

Sec. 18.20.410 Prohibits any kind of retaliation against a nurse for exercising rights or reporting violations under the other sections of the bill should they become law.

Sec. 18.20.420 Requires a health care facility to provide an anonymous process by which a patient or a nurse may make a complaint about staffing levels and patient safety that relates to overtime work by nurses and to limitation on overtime work by nurses under AS 18.20.400.

Sec. 18.20.430 Requires the Commissioner of Labor and Workforce Development to administer the overtime limitations for nurses established by the bill and adopt regulations for implementing and enforcing them. It establishes a complaint procedure, and a schedule of penalties to be imposed upon a health care facility if a complaint under the established procedure leads to the Commissioner finding a "knowing" violation of the new limitations on nursing overtime. "Knowingly" is defined in the same section when "the facility is either aware that its conduct is of a nature prohibited by the overtime provision or aware that the circumstances described in the overtime prohibition exist;" or in proving the existence of a particular fact that the "facility is aware of a substantial probability of its existence, unless the facility reasonably believes it does not exist."

Sec. 18.20.440 Provides the procedure for semiannual reporting requirements by health care facilities for each nurse, including the number of overtime hours that were

mandatory, voluntary, or on-call. On-call hours are further identified as mandatory or voluntary.

Sec. 18.30.449 Defines key words, including "health care facility," "nurse," "on-call," and "overtime."

Section 3. Requires that if the bill becomes law the filing of the first semi-annual reports under AS 18.20.440 must be filed before February 1, 2008 for the period July 1, 2007 through December 31, 2008.

Section 4. requires that the reporting requirements of AS 18.20.440 take effect July 1, 2007.

Section 5. provides for an effective date of January 1, 2008 for parts of the bill not made effective on July 1, 2007.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note: SB24-DOLWD-WH-03-30-07

Bill Version: SB 28

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Title: Limit Overtime for Registered Nurses

Department: Labor and Workforce Development

RDU: Labor Standards and Safety

Component: Wage and Hour

Sponsor: Senator Davis

Requester: Senate HES

Component Number: 345

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	68.2	68.2	68.2	68.2	68.2	68.2
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	8.9	8.9	8.9	8.9	8.9	8.9
Supplies	3.8	0.5	0.5	1.8	0.5	0.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	83.9	80.6	80.6	81.9	80.6	80.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	83.9	80.6	80.6	81.9	80.6	80.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	83.9	80.6	80.6	81.9	80.6	80.6

Estimate of any current year (FY2007) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill requires the Department of Labor and Workforce Development to investigate complaints, collect evidence, interview witnesses, subpoena records and make determinations regarding overtime worked by registered nurses. There are currently approximately 5,000 registered nurses working in Alaska and this is projected to be a rapidly growing occupation. The anticipated workload will require a full-time Wage & Hour Investigator I position funded with General Funds. Costs include \$68.2 for salary and benefits and \$15.7 in various associated position costs including \$3.3 of one-time position costs for basic office equipment.

Prepared by: Grey Mitchell, Director
 Division: Labor Standards & Safety

Phone: 465-4855

Date/Time: 3/30/07 2:34 PM

Approved by: Click Bishop, Commissioner

Date: 3/30/2007

Agency: Department of Labor and Workforce Development

SENATE BILL NO. 28**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - FIRST SESSION****BY SENATOR DAVIS****Introduced: 1/16/07****Referred: Health, Education and Social Services, Labor and Commerce, Finance****A BILL****FOR AN ACT ENTITLED**

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

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **LEGISLATIVE FINDINGS AND INTENT.** The legislature finds that

7 (1) it is essential that registered nurses and licensed practical nurses providing
8 direct patient care be available to meet the needs of patients;

9 (2) quality patient care is jeopardized by registered nurses and licensed
10 practical nurses who work unnecessarily long hours in health care facilities;

11 (3) registered nurses and licensed practical nurses are leaving their profession
12 because of workplace stresses, long work hours, and depreciation of their essential role in the
13 delivery of quality and direct patient care;

14 (4) it is necessary to safeguard the efficiency, health, and general well-being

1 (d) In this section, "unforeseen emergency situation" means an unusual,
2 unpredictable, or unforeseen situation caused by an act of terrorism, disease outbreak,
3 natural disaster, or other act of God, but does not include a situation in which a health
4 care facility has reasonable knowledge of increased patient volume or inadequate
5 staffing because of staff scheduling, vacations, medical leave, or other foreseeable
6 cause.

7 **Sec. 18.20.410. Prohibition of retaliation.** A health care facility may not
8 discharge, discipline, threaten, discriminate against, penalize, or file a report with the
9 Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.450
10 or for the good faith reporting of an alleged violation of AS 18.20.400 - 18.20.450.

11 **Sec. 18.20.420. Enforcement, offenses, and penalties.** (a) The commissioner
12 shall administer AS 18.20.400 - 18.20.450 and adopt regulations for implementing and
13 enforcing AS 18.20.400 - 18.20.450.

14 (b) A complaint alleging a violation of AS 18.20.400 - 18.20.450 must be filed
15 with the commissioner within 30 days after the date of the alleged violation. The
16 commissioner shall provide a copy of the complaint to the health care facility named
17 in the filing within three business days after receiving the complaint.

18 (c) If the commissioner finds that a health care facility has knowingly violated
19 an overtime provision of AS 18.20.400 - 18.20.450, the following civil penalties shall
20 apply:

21 (1) for a first violation of AS 18.20.400 - 18.20.450, the health care
22 facility shall receive a reprimand and shall pay a nurse required to work in violation of
23 AS 18.20.400 - 18.20.450 three times the nurse's hourly compensation for each hour
24 worked in violation of AS 18.20.400 - 18.20.450;

25 (2) for a second violation of AS 18.20.400 - 18.20.450 within 12
26 months, the health care facility shall receive a reprimand, shall be assessed a penalty
27 of \$500, and shall pay a nurse required to work in violation of AS 18.20.400 -
28 18.20.450 three times the nurse's hourly compensation for each hour worked in
29 violation of AS 18.20.400 - 18.20.450;

30 (3) for a third violation of AS 18.20.400 - 18.20.450 within 12 months,
31 the health care facility shall receive a reprimand, shall be assessed a penalty of not less

1 (2) "knowingly" means for a person to be aware, with respect to
2 conduct or to a circumstance described by a provision of this chapter, that the person's
3 conduct is of that nature or that the circumstance exists; when knowledge of the
4 existence of a particular fact is required, that knowledge is established if a person is
5 aware of a substantial probability of its existence, unless the person reasonably
6 believes it does not exist;

7 (3) "nurse" means an individual licensed to practice registered nursing
8 or practical nursing under AS 08.68 who provides nursing services through direct
9 patient care or clinical services and includes a nurse manager when delivering in-
10 hospital patient care;

11 (4) "on-call" means a status in which a nurse must be ready to report to
12 the health care facility and may be called to work by the health care facility;

13 (5) "overtime" means the hours worked in excess of a predetermined
14 and regularly scheduled shift that is agreed upon by a nurse and a health care facility.

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

17 **APPLICABILITY.** The first report required to be filed under AS 18.20.430, enacted in
18 sec. 2 of this Act, shall be filed before February 1, 2008, for the period July 1, 2007, through
19 December 31, 2007.

20 * Sec. 4. AS 18.20.430, enacted in sec. 2 of this Act, and sec. 3 of this Act take effect
21 July 1, 2007.

22 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2008.

Alaska State Legislature

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Senator Bettye Davis

Senate Bill 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.”

Additional facts and justification for SB 28

- I. Unregulated mandatory overtime leads to insidious and pervasive harm to nurses, patients, the profession, and health care facilities.**
- Mandatory overtime hours are compulsory (as opposed to voluntary) and above an agreed upon, predetermined, regularly scheduled shift. Many nurses are told they are expected to “voluntarily” work a number of overtime shifts due to a shortage of nurses in a particular shift, discipline, or facility, such as emergency room, surgery, or mental health shifts in private or state institutions.
 - Many nurses fear reprisals if they do not consent, accede, or acquiesce to work overtime shifts when they are exhausted or planning time off for their families or their own wellbeing. The threat of reprisals may not be overt or express, and includes but is not limited to assignment to unattractive tasks or work shifts, poor performance evaluations, denial of salary increases or promotion, discipline, or demotion, or discharge. In extreme cases, reprisals can include retaliatory reporting to the nursing board, licensure suspension or revocation actions, and charges of “patient abandonment.”
 - Many registered nurses are leaving the profession because of workplace stress, long work hours, and mandatory overtime.
 - Fewer women, the traditional care givers, are choosing nursing as a career, since opportunities have opened up in many other less demanding professions.
 - The Institute of Medicine and National Council of State Boards of Nursing estimated in 1999 that 1 million medical errors per year resulted in 44,000-120,000 fatalities, costing \$69 billion, or \$575,000 per death, and sleep deprivation and fatigue contributed significantly to the risk of human errors. According to the National Institute for Occupational Safety and Health, when staff plan to work additional shifts on a voluntary basis, they are more likely to be prepared and to get plenty of rest immediately prior to working extended shifts. However, when an employer requires mandatory overtime, this usually occurs with little or no prior notice. The results often are high levels of fatigue and increased errors. These errors can result in life-threatening situations for both

the patient and the nurse, including back injuries for the nurse, patient medication errors, and even death. At the same time, health care facilities and nurses are subjected to increased liability.

II. The nursing shortage increases mandatory overtime which often can be used as a routine staffing tool to limit needed new hires.

- There is a shortage of 430,000 nurses nationwide and this number is expected to increase to over 1 million sometime after 2010 due to increasing retirements and departures of an aging nursing population (average age 43) and fewer replacements.
- Greatest nursing shortages in Alaska are found in state institutions which usually do not have pay rates competitive with private health care facilities. State nursing pay increases of 15% in July, 2006 reportedly still do not match pay rates in private health care facilities.
- While some large private health care facilities can afford to pay premium rates to hire all the permanent full-time and temporary "traveling nurses" positions they need, they still use mandatory overtime as a "staffing tool" to limit placing more nurses on the payroll. It is less costly to pay mandatory overtime than to hire permanent employees with contractual rights and benefits. State institutions, on the other hand, often cannot attract enough qualified nurses due to lower pay.
- The physician shortage in Alaska also exacerbates the nurses' mandatory overtime problem, because nurses are under more pressure to work longer hours and shoulder more responsibility when physicians are not available.

III. Compensation of "time and one-half" is no long a deterrent to employers' use of mandatory overtime hour, nor is it a great incentive to employees who are constantly fatigued by the extra work hours.

- Public policy dictates that the legislature must protect registered and licensed practical nurses and their patients from work abuses in a health care system which can easily subsume their individual wellbeing into corporate and bureaucratic strictures. Some overtime may always be necessary, but when it becomes a pattern or planned mandatory practice, it defeats the purpose of the Fair Labor Standards Act (FLSA) of 1938. The main objective of the act was to eliminate "*labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency and well-being of workers.*"
- The FLSA was made applicable to hospitals, nursing homes, or other residential care facilities in the 1961 amendment determining "enterprise coverage." The FLSA created a monetary penalty, *i.e.*, time and one-half for overtime, directed against employers who did not spread their existing work among a greater number of employees. State law covers the same workers as regards overtime. The FLSA was premised on the economic theory that if overtime became too expensive, it would force employers to hire more people instead of working the few to exhaustion.
- Now 70 years after enactment, the FLSA operates in a larger, stronger, and more diverse economy with other pressures on business besides capital and labor. Thus, the monetary penalty of time and one-half for overtime hours is no longer a major deterrent to employer abuse of mandatory overtime hours for nurses.
- Nurses, on the other hand, can only offer or withhold their labor in controlling their working conditions and quality of life. Working mandatory or voluntary overtime hours for extra pay has decreasing appeal to nurses who regularly must work extended overtime shifts. At some point, enough is enough. The fatigue and lack of personal or family time becomes increasingly onerous, while the safety and care of patients declines.

**MANDATORY
OVERTIME**



Mandatory Overtime

POSITION

ANA opposes the use of mandatory overtime as a staffing tool.

BACKGROUND

Nurses report a dramatic increase in the use of mandatory overtime as a staffing tool and fear potential consequences for the safety and quality of care provided to their patients. Today, overtime (mandatory and voluntary) is the most common method facilities use to cover staffing insufficiencies. In fact, some employers have described mandatory overtime as a staffing model and have actually coined the term "mandation" to define the methodology. Many nurses contend employers insist they work an extra shift (or more) or face dismissal for insubordination and being reported to the state board of nursing for patient abandonment.

Federal regulations place limits on the amount of time that can be worked in other industries in which the work directly affects public safety (e.g., aviation and transportation). Those regulations also set requirements for defined periods of time that workers must rest or be off duty before returning to work. Health care is exempt from such overtime regulations.

A few United American Nurse bargaining units have been successful in negotiating limits on mandatory overtime. In fact, concerns about the effects of mandatory overtime were central concerns in recent strikes in Washington, D.C., Minnesota, and New York.

RATIONALE

The American Nurses Association (ANA) is concerned about the impact of mandatory overtime on the ability of our nation's acute care nurses to provide high-quality health care services. ANA believes that the elimination of mandatory overtime for the nation's nurses is a critical step in efforts to improve the quality of health care and reduce medical errors. Following are a few facts about the dangers of forced overtime:

- Nurses are, in general, an aging workforce. The average working nurse is slightly over 43 years of age.
- Increased reliance on mandatory overtime has occurred at the same time that patient acuity has increased, the use of sophisticated technology has increased, and the length of hospital stay has decreased.
- Research in 1977 by Dawson and Reid at the University of Australia showed that "work performance is more likely to be impaired by moderate fatigue than by alcohol consumption." Their research shows that workers staying awake for long periods pose significant safety risks.
- Sleep loss influences several aspects of performance, slowing thinking and reaction time, delaying responses, causing failure to respond when appropriate or false responses, and diminishing memory, among others. ↵