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09300HB4436ham002

LRB093 20597 DRJ 49412 a

1 AMENDMENT TO HOUSE BILL 4436

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4436, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Hospital Licensing Act is amended by adding  
6 Section 17 as follows:

7 (210 ILCS 85/17 new)

8 Sec. 17. Nurse overtime prohibited.

9 (a) Definitions. As used in this Section:

10 "Nurse" means any registered nurse, licensed practical  
11 nurse, or assistive nursing professional who receives an hourly  
12 wage and has direct responsibility to oversee or carry out  
13 medical regimens or nursing care for one or more patients.

14 "Overtime" means work in excess of an agreed-to,  
15 predetermined scheduled work shift not to exceed 16 hours in  
16 any 24-hour period, or work in excess of 120 hours in a  
17 consecutive 14-day period, but does not include time spent by  
18 nurses being on call. In a hospital for which a collective  
19 bargaining agreement is in place, the collective bargaining  
20 agreement shall prevail.

21 "On-call" means the status of a nurse who has agreed to be  
22 scheduled as available for a specific time period but who is  
23 not scheduled to a patient-specific assignment until and when  
24 patient needs require the nurse's nursing services and the

1 nurse is then requested to work in order to ensure the  
2 availability of qualified specialty staff to meet an unexpected  
3 patient need or provide continuity through completion of a  
4 case, treatment or procedure.

5 "Unforeseen emergent circumstance" means an unusual,  
6 unpredictable, unforeseen, or unexpected circumstance calling  
7 for additional clinical assistance or care where the hospital  
8 has no reasonable alternative for obtaining such care or  
9 assistance.

10 (b) Overtime prohibited. No nurse shall be required to work  
11 overtime except in the case of an unforeseen emergent  
12 circumstance when overtime is required only as a last resort. A  
13 nurse shall be required to work overtime if:

14 (1) the work is a consequence of an emergency situation  
15 that could not have been reasonably anticipated;

16 (2) the nurse has critical skills and expertise that  
17 are required for the work;

18 (3) the State has enacted its medical disaster plan; or

19 (4) the standard of care for a patient assignment  
20 requires continuity of care through completion of a case,  
21 treatment, or procedure.

22 In calculating overtime, on-call hours are not considered  
23 until patient need requires nursing services and the nurse is  
24 then requested to work in order to ensure the availability of  
25 qualified specialty staff to meet an unexpected patient need or  
26 provide continuity through completion of a case, treatment, or  
27 procedure.

28 (c) Violations. Any employee of a hospital that is subject  
29 to this Act may file a complaint with the Department of Public  
30 Health regarding an alleged violation of this Section. The  
31 complaint must be filed within 30 days following the occurrence  
32 of the incident giving rise to the alleged violation. The  
33 Department must forward notification of the alleged violation  
34 to the hospital in question within 3 business days after the

1 complaint is filed.

2 A violation of this Section must be proven by clear and  
3 convincing evidence that a nurse was required to work overtime  
4 against his or her will. The hospital may defeat the claim of a  
5 violation by clear and convincing evidence that an unforeseen  
6 emergent circumstance, which required overtime work only as a  
7 last resort, existed at the time the employee was required or  
8 compelled to work.

9 Upon receiving a complaint of a violation of this Section,  
10 the Department may take any action authorized under Section 7  
11 or 9 of this Act.

12 (d) Posting of summary. Every hospital that is subject to  
13 this Act must keep a summary of this Section approved by the  
14 Director of Labor posted in a conspicuous and accessible place  
15 in or about the premises wherever any person subject to this  
16 Section is employed. The Department of Labor must furnish  
17 copies of the summary on request to hospitals, without charge.

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.".