

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Hospital Licensing Act is amended by adding  
5 Section 10.9 as follows:

6 (210 ILCS 85/10.9 new)

7 Sec. 10.9. Nurse mandated overtime prohibited.

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

9 "Mandated overtime" means work that is required by the  
10 hospital in excess of an agreed-to, predetermined work shift.  
11 Time spent by nurses required to be available as a condition of  
12 employment in specialized units, such as surgical nursing  
13 services, shall not be counted or considered in calculating the  
14 amount of time worked for the purpose of applying the  
15 prohibition against mandated overtime under subsection (b).

16 "Nurse" means any advanced practice nurse, registered  
17 professional nurse, or licensed practical nurse, as defined in  
18 the Nursing and Advanced Practice Nursing Act, who receives an  
19 hourly wage and has direct responsibility to oversee or carry  
20 out nursing care. For the purposes of this Section, "advanced  
21 practice nurse" does not include a certified registered nurse  
22 anesthetist who is primarily engaged in performing the duties  
23 of a nurse anesthetist.

24 "Unforeseen emergent circumstance" means (i) any declared  
25 national, State, or municipal disaster or other catastrophic  
26 event, or any implementation of a hospital's disaster plan,  
27 that will substantially affect or increase the need for health  
28 care services or (ii) any circumstance in which patient care  
29 needs require specialized nursing skills through the  
30 completion of a procedure. An "unforeseen emergent  
31 circumstance" does not include situations in which the hospital  
32 fails to have enough nursing staff to meet the usual and

1 reasonably predictable nursing needs of its patients.

2 (b) Mandated overtime prohibited. No nurse may be required  
3 to work mandated overtime except in the case of an unforeseen  
4 emergent circumstance when such overtime is required only as a  
5 last resort. Such mandated overtime shall not exceed 4 hours  
6 beyond an agreed-to, predetermined work shift.

7 (c) Off-duty period. When a nurse is mandated to work up to  
8 12 consecutive hours, the nurse must be allowed at least 8  
9 consecutive hours of off-duty time immediately following the  
10 completion of a shift.

11 (d) Retaliation prohibited. No hospital may discipline,  
12 discharge, or take any other adverse employment action against  
13 a nurse solely because the nurse refused to work mandated  
14 overtime as prohibited under subsection (b).

15 (e) Violations. Any employee of a hospital that is subject  
16 to this Act may file a complaint with the Department of Public  
17 Health regarding an alleged violation of this Section. The  
18 complaint must be filed within 45 days following the occurrence  
19 of the incident giving rise to the alleged violation. The  
20 Department must forward notification of the alleged violation  
21 to the hospital in question within 3 business days after the  
22 complaint is filed. Upon receiving a complaint of a violation  
23 of this Section, the Department may take any action authorized  
24 under Section 7 or 9 of this Act.

25 (f) Proof of violation. Any violation of this Section must  
26 be proved by clear and convincing evidence that a nurse was  
27 required to work overtime against his or her will. The hospital  
28 may defeat the claim of a violation by presenting clear and  
29 convincing evidence that an unforeseen emergent circumstance,  
30 which required overtime work, existed at the time the employee  
31 was required or compelled to work.

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law.