



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5637

by Rep. Chad Hays

SYNOPSIS AS INTRODUCED:

210 ILCS 45/3-202.07 new

Amends the Nursing Home Care Act. Provides that no nurse may be required to work mandated overtime, except in the case of an unforeseen emergent circumstance when such overtime is only required as a last resort. Defines "mandated overtime", "nurse", and "unforeseen emergent circumstance". Provides that if a nurse is mandated to work up to 12 consecutive hours, the nurse must be allowed at least 8 consecutive hours of off-duty time immediately following the completion of a shift. Prohibits a facility from disciplining, discharging, or taking any other adverse employment action against a nurse solely because the nurse refused to work mandated overtime. Establishes procedures for filing a complaint with the Department of Public Health alleging a violation of the prohibition on mandated overtime and the burden of proof for determining whether a violation occurred. Effective immediately.

LRB099 19257 MJP 43649 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Nursing Home Care Act is amended by adding
5 Section 3-202.07 as follows:

6 (210 ILCS 45/3-202.07 new)

7 Sec. 3-202.07. Nurse mandated overtime prohibited.

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

9 "Mandated overtime" means work that is required by the
10 facility in excess of an agreed-to, predetermined work shift.

11 "Nurse" means any advanced practice nurse (except for a
12 certified registered nurse anesthetist who is primarily
13 engaged in performing the duties of a nurse anesthetist),
14 registered professional nurse, or licensed practical nurse, as
15 defined in the Nurse Practice Act, who receives an hourly wage
16 and has direct responsibility to oversee or carry out nursing
17 care.

18 "Unforeseen emergent circumstance" means (i) any declared
19 national, State, or municipal disaster or other catastrophic
20 event, or any implementation of a facility's disaster plan,
21 that will substantially affect or increase the need for health
22 care services or (ii) any circumstance in which patient care
23 needs require specialized nursing skills through the

1 completion of a procedure. "Unforeseen emergent circumstance"
2 does not include a situation in which the facility fails to
3 have enough nursing staff to meet the usual and reasonably
4 predictable nursing needs of its residents.

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

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

14 (d) No facility may discipline, discharge, or take any
15 other adverse employment action against a nurse solely because
16 the nurse refused to work mandated overtime as prohibited under
17 subsection (b).

18 (e) Any employee of a facility that is subject to this Act
19 may file a complaint with the Department regarding an alleged
20 violation of this Section. The complaint must be filed within
21 45 days following the occurrence of the incident giving rise to
22 the alleged violation. The Department must forward
23 notification of the alleged violation to the facility in
24 question within 3 business days after the complaint is filed.
25 Upon receiving a complaint of a violation of this Section, the
26 Department may take any action authorized under Section 3-119

1 or 3-212 of this Act.

2 (f) Any violation of this Section must be proved by clear
3 and convincing evidence that a nurse was required to work
4 overtime against his or her will. The facility may defeat the
5 claim of a violation by presenting clear and convincing
6 evidence that an unforeseen emergent circumstance, which
7 required overtime work, existed at the time the employee was
8 required or compelled to work.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.