

1 AN ACT in relation to employment.

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

4 Section 1. Short title. This Act may be cited as the
5 Patient Safety Act.

6 Section 5. Definitions. In this Act:

7 "Employee" means an individual employed by a health care
8 facility who is involved in direct care activities or
9 clinical services and who receives an hourly wage.

10 "Employer" means an individual, partnership, association,
11 or corporation or person or groups of persons acting directly
12 or indirectly in the interest of a health care facility.
13 "Employer" includes all State institutions and political
14 subdivisions of the State.

15 "Health care facility" includes the following facilities:

16 (1) An ambulatory surgical treatment center
17 required to be licensed under the Ambulatory Surgical
18 Treatment Center Act.

19 (2) An institution, place, building, or agency that
20 is required to be licensed under the Hospital Licensing
21 Act or that is subject to the University of Illinois
22 Hospital Act.

23 (3) An institution required to be licensed under
24 the Nursing Home Care Act.

25 (4) A hospital, nursing home, ambulatory surgical
26 treatment center, prison health care unit, or kidney
27 disease treatment center maintained by the State, a unit
28 of local government, or any department or agency of the
29 State or a unit of local government.

30 (5) A kidney disease treatment center, including a
31 freestanding hemodialysis unit.

1 (6) An institution or organization delivering home
2 health care services under the Home Health Agency
3 Licensing Act.

4 "Health care facility" does not include a federally owned
5 or operated facility or institution.

6 "Overtime" means work in excess of an agreed-to,
7 predetermined scheduled work shift not to exceed 12 hours, or
8 work in excess of 40 hours in one week, except in the case of
9 an unforeseen emergent circumstance when overtime is required
10 only as a last resort.

11 "Unforeseen emergent circumstance" means a circumstance
12 in which the employer has no foreseeable control, as in the
13 instance of war, a national disaster, or a declared state of
14 emergency. It does not mean situations in which the employer
15 has reasonable knowledge of a decreased staffing plan,
16 including but not limited to, scheduled vacations, employee
17 illness, or increased patient census.

18 Section 10. Prohibition against mandatory overtime. No
19 employee of a health care facility may be required to accept
20 overtime work except in the case of an unforeseen emergent
21 circumstance when overtime is required only as a last resort.
22 Any other attempts to compel or require employees to work
23 overtime are declared to be contrary to public policy, and
24 any such requirement contained in any contract, agreement, or
25 understanding executed after the effective date of this Act
26 is void.

27 Section 15. Additional prohibitions and limitations.

28 (a) Notwithstanding any provision of law to the
29 contrary, no health care facility shall require an employee
30 to accept overtime work.

31 (b) The acceptance by any employee of overtime work
32 shall be strictly voluntary, and the refusal of any employee

1 to accept such overtime work shall not be grounds for
2 discrimination, dismissal, discharge, or retaliation, or any
3 other employment decision adverse to the employee.

4 (c) The provisions of this Section do not apply in the
5 case of an unforeseen emergent circumstance when the overtime
6 is required only as a last resort.

7 Section 20. Penalties and sanctions.

8 (a) An employer who violates the provisions of this Act
9 shall be sanctioned by the appropriate State regulatory
10 agency. If a health care facility has 3 or more violations of
11 this Act as determined by the appropriate State regulatory
12 agency, the facility is subject to a civil penalty of not
13 less than \$500, nor more than \$5,000 for each such violation.
14 The penalty may be imposed by the State agency that regulates
15 the health care facility. The Attorney General may bring a
16 civil action to enforce the collection of any civil penalty
17 imposed under this subsection.

18 (b) If a health care facility has 7 or more violations
19 of this Act as determined by the appropriate State regulatory
20 agency, the facility shall be investigated by the regulatory
21 agency and if the investigators find an ongoing pattern of
22 deliberate violations of this Act, the health care facility's
23 license may be suspended or revoked by the regulatory agency.

24 Section 25. Private right of action.

25 (a) Any person who suffers damage as a result of a
26 violation of this Act committed by an employer or an
27 employer's representative may bring an action against the
28 employer in the circuit court. Upon a finding that the
29 employer or the employer's representative committed a
30 violation of this Act, the court may award the plaintiff his
31 or her actual damages together with his or her reasonable
32 attorney's fees incurred in maintaining the action.

1 (b) In any action brought under this Section, any
2 evidence that an employee was required to work overtime
3 creates a presumption that the employee's employer committed
4 a violation of this Act. To rebut this presumption, the
5 employer must prove that an unforeseen emergent circumstance,
6 which required overtime work only as a last resort, existed
7 at the time the employee was required or compelled to work.

8 Section 30. Posting of Act summary. Every employer who is
9 subject to any provision of this Act must keep a summary of
10 this Act approved by the Director of Labor posted in a
11 conspicuous and accessible place in or about the premises
12 wherever any person subject to this Act is employed. The
13 Department of Labor must furnish copies of the summary on
14 request to employers, without charge.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.