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LRB094 06514 DRJ 45268 a

1 AMENDMENT TO SENATE BILL 201

2 AMENDMENT NO. _____. Amend Senate Bill 201 by replacing
3 everything after the enacting clause with the following:

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

1 national, State, or municipal disaster or other catastrophic
2 event, or any implementation of a hospital's disaster plan,
3 that will substantially affect or increase the need for health
4 care services or (ii) any circumstance in which patient care
5 needs require specialized nursing skills through the
6 completion of a procedure. An "unforeseen emergent
7 circumstance" does not include situations in which the hospital
8 fails to have enough nursing staff to meet the usual and
9 reasonably predictable nursing needs of its patients.

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

15 (c) Off-duty period. When a nurse is mandated to work up to
16 12 consecutive hours, the nurse must be allowed at least 8
17 consecutive hours of off-duty time immediately following the
18 completion of a shift.

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

23 (e) Violations. Any employee of a hospital that is subject
24 to this Act may file a complaint with the Department of Public
25 Health regarding an alleged violation of this Section. The
26 complaint must be filed within 45 days following the occurrence
27 of the incident giving rise to the alleged violation. The
28 Department must forward notification of the alleged violation
29 to the hospital in question within 3 business days after the
30 complaint is filed. Upon receiving a complaint of a violation
31 of this Section, the Department may take any action authorized
32 under Section 7 or 9 of this Act.

33 (f) Proof of violation. Any violation of this Section must
34 be proved by clear and convincing evidence that a nurse was

1 required to work overtime against his or her will. The hospital
2 may defeat the claim of a violation by presenting clear and
3 convincing evidence that an unforeseen emergent circumstance,
4 which required overtime work, existed at the time the employee
5 was required or compelled to work.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".