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AN ACT in relation to employment.

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

Section 1. Short title. This Act may be citied as the
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 under24 the Nursing Home Care Act.

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

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

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

4 "Health care facility" does not include a federally owned5 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 employee of a health care facility may be required to accept 19 20 overtime work except in the case of an unforeseen emergent 21 circumstance when overtime is required only as a last resort. Any other attempts to compel or require employees to work 22 overtime are declared to be contrary to public policy, and 23 24 any such requirement contained in any contract, agreement, or understanding executed after the effective date of this Act 25 is void. 26

27 Section 15. Additional prohibitions and limitations.

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

31 (b) The acceptance by any employee of overtime work32 shall be strictly voluntary, and the refusal of any employee

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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.

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Section 20. Penalties and sanctions.

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

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

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Section 25. Private right of action.

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

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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.

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