

JAN 22 2021

A BILL FOR AN ACT

RELATING TO WORK HOURS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 457, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§457- Nurses; overtime limitations. (a) Except as
5 provided in subsection (c), no nurse employed by a health care
6 employer shall be required or coerced, directly or indirectly:

7 (1) To work beyond a predetermined and regularly scheduled
8 shift that is agreed to by the nurse and the health
9 care employer;

10 (2) To work beyond eighty hours in a fourteen-day period;
11 or

12 (3) To accept an assignment of overtime if, in the
13 judgment of the nurse, the overtime would jeopardize
14 patient or employee safety.

15 (b) Except as provided in subsection (c), after working a
16 predetermined and regularly scheduled shift that is agreed to by
17 the nurse and the health care employer pursuant to subsection



1 (a) (1), the nurse shall be allowed not less than ten consecutive
2 hours of off-duty time immediately following the end of the
3 shift.

4 (c) Subsection (a) shall not apply to:

5 (1) A nurse who is employed by a health care employer that
6 provides services for a school, school district, or
7 other educational institution, when the nurse is on
8 duty for more than fourteen consecutive hours during
9 an occasional special event, such as a field trip,
10 that is sponsored by the employer;

11 (2) A nurse who voluntarily works overtime on an aircraft
12 in use for medical transport; provided that the shift
13 worked is allowable under rules adopted by the state
14 board of nursing pursuant to chapter 91;

15 (3) A nurse on duty in overtime status because of an
16 unforeseen emergency that could otherwise jeopardize
17 patient safety; provided that as used in this
18 paragraph, "unforeseen emergency" means an unusual,
19 unpredictable, or unforeseen situation caused by an
20 act of terrorism; outbreak of disease; natural
21 disaster; or a declared national, state, or local



1 emergency but shall not include a situation in which a
2 health care employer has reasonable knowledge of
3 increased patient volume or inadequate staffing
4 because of some other cause, if that cause is
5 foreseeable;

6 (4) A nurse who is fulfilling on-call time that is agreed
7 upon by the nurse and a health care employer before it
8 is scheduled;

9 (5) A nurse who voluntarily works overtime; provided that
10 the work is consistent with professional standards and
11 safe patient care and does not exceed fourteen
12 consecutive hours;

13 (6) A nurse who voluntarily works beyond eighty hours in a
14 fourteen-day period; provided that the nurse does not
15 work more than fourteen consecutive hours without a
16 ten-hour break and the work is consistent with
17 professional standards and safe patient care;

18 (7) A nurse who agrees to work under a contract that
19 requires the employer to provide full-time pay and
20 benefits equivalent to the pay and benefits for a
21 forty-hour workweek if the nurse works a weekend



1 schedule of four eight-hour shifts, with not more than
2 sixteen consecutive hours on duty without a break of
3 at least eight hours; provided that as used in this
4 paragraph, "weekend" means the period that begins
5 Friday at 5:00 p.m. and ends Monday at 8:00 a.m.; or

6 (8) The first hour on overtime status when the health care
7 employer is obtaining another nurse to work in place
8 of the nurse in overtime status.

9 (d) The state board of nursing shall adopt rules pursuant
10 to chapter 91 to implement this section.

11 (e) As used in this section, health care employer includes
12 public and private health care organizations or entities."

13 SECTION 2. Chapter 457A, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§457A- Nurse aides; overtime limitations. (a) Except
17 as provided in subsection (c), no nurse aide employed by a
18 health care employer shall be required or coerced, directly or
19 indirectly:



1 (1) To work beyond a predetermined and regularly scheduled
2 shift that is agreed to by the nurse aide and the
3 health care employer;

4 (2) To work beyond eighty hours in a fourteen-day period;
5 or

6 (3) To accept an assignment of overtime if, in the
7 judgment of the nurse aide, the overtime would
8 jeopardize patient or employee safety.

9 (b) Except as provided in subsection (c), after working a
10 predetermined and regularly scheduled shift that is agreed to by
11 the nurse aide and the health care employer pursuant to
12 subsection (a)(1), the nurse aide shall be allowed not less than
13 ten consecutive hours of off-duty time immediately following the
14 end of the shift.

15 (c) Subsection (a) shall not apply to:

16 (1) A nurse aide who is employed by a health care employer
17 that provides services for a school, school district,
18 or other educational institution, when the nurse aide
19 is on duty for more than fourteen consecutive hours
20 during an occasional special event, such as a field
21 trip, that is sponsored by the employer;



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- 1 (2) A nurse aide who voluntarily works overtime on an
2 aircraft in use for medical transport; provided that
3 the shift worked is allowable under rules adopted by
4 the director of health pursuant to chapter 91;
- 5 (3) A nurse aide on duty in overtime status because of an
6 unforeseen emergency that could otherwise jeopardize
7 patient safety; provided that as used in this
8 paragraph, "unforeseen emergency" means an unusual,
9 unpredictable, or unforeseen situation caused by an
10 act of terrorism; outbreak of disease; natural
11 disaster; or a declared national, state, or local
12 emergency but shall not include a situation in which a
13 health care employer has reasonable knowledge of
14 increased patient volume or inadequate staffing
15 because of some other cause, if that cause is
16 foreseeable;
- 17 (4) A nurse aide who is fulfilling on-call time that is
18 agreed upon by the nurse aide and a health care
19 employer before it is scheduled;
- 20 (5) A nurse aide who voluntarily works overtime; provided
21 that the work is consistent with professional



1 standards and safe patient care and does not exceed
2 fourteen consecutive hours;

3 (6) A nurse aide who voluntarily works beyond eighty hours
4 in a fourteen-day period; provided that the nurse aide
5 does not work more than fourteen consecutive hours
6 without a ten-hour break and the work is consistent
7 with professional standards and safe patient care;

8 (7) A nurse aide who agrees to work under a contract that
9 requires the employer to provide full-time pay and
10 benefits equivalent to the pay and benefits for a
11 forty-hour workweek if the nurse aide works a weekend
12 schedule of four eight-hour shifts, with not more than
13 sixteen consecutive hours on duty without a break of
14 at least eight hours; provided that as used in this
15 paragraph, "weekend" means the period that begins

16 Friday at 5:00 p.m. and ends Monday at 8:00 a.m.; or
17 (8) The first hour on overtime status when the health care
18 employer is obtaining another nurse aide to work in
19 place of the nurse aide in overtime status.

20 (d) The director of health shall adopt rules pursuant to
21 chapter 91 to implement this section.



1 (e) As used in this section, health care employer includes
2 public and private health care organizations or entities."

3 SECTION 3. Chapter 466D, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§466D- Respiratory therapists; overtime limitations.

7 (a) Except as provided in subsection (c), no respiratory
8 therapist employed by a health care employer shall be required
9 or coerced, directly or indirectly:

10 (1) To work beyond a predetermined and regularly scheduled
11 shift that is agreed to by the nurse and the health
12 care employer;

13 (2) To work beyond eighty hours in a fourteen-day period;
14 or

15 (3) To accept an assignment of overtime if, in the
16 judgment of the nurse, the overtime would jeopardize
17 patient or employee safety.

18 (b) Except as provided in subsection (c), after working a
19 predetermined and regularly scheduled shift that is agreed to by
20 the nurse and the health care employer pursuant to subsection

21 (a) (1), the respiratory therapist shall be allowed not less than



1 ten consecutive hours of off-duty time immediately following the
2 end of the shift.

3 (c) Subsection (a) shall not apply to:

4 (1) A respiratory therapist who is employed by a health
5 care employer that provides services for a school,
6 school district, or other educational institution,
7 when the nurse is on duty for more than fourteen
8 consecutive hours during an occasional special event,
9 such as a field trip, that is sponsored by the
10 employer;

11 (2) A respiratory therapist who voluntarily works overtime
12 on an aircraft in use for medical transport; provided
13 that the shift worked is allowable under rules adopted
14 by the director of health pursuant to chapter 91;

15 (3) A respiratory therapist on duty in overtime status
16 because of an unforeseen emergency that could
17 otherwise jeopardize patient safety; provided that as
18 used in this paragraph, "unforeseen emergency" means
19 an unusual, unpredictable, or unforeseen situation
20 caused by an act of terrorism; outbreak of disease;
21 natural disaster; or a declared national, state, or



1 local emergency but shall not include a situation in
2 which a health care employer has reasonable knowledge
3 of increased patient volume or inadequate staffing
4 because of some other cause, if that cause is
5 foreseeable;

6 (4) A respiratory therapist who is fulfilling on-call time
7 that is agreed upon by the nurse and a health care
8 employer before it is scheduled;

9 (5) A respiratory therapist who voluntarily works
10 overtime; provided that the work is consistent with
11 professional standards and safe patient care and does
12 not exceed fourteen consecutive hours;

13 (6) A respiratory therapist who voluntarily works beyond
14 eighty hours in a fourteen-day period; provided that
15 the respiratory therapist does not work more than
16 fourteen consecutive hours without a ten-hour break
17 and the work is consistent with professional standards
18 and safe patient care;

19 (7) A respiratory therapist who agrees to work under a
20 contract that requires the employer to provide full-
21 time pay and benefits equivalent to the pay and



1 benefits for a forty-hour workweek if the respiratory
2 therapist works a weekend schedule of four eight-hour
3 shifts, with not more than sixteen consecutive hours
4 on duty without a break of at least eight hours;
5 provided that as used in this paragraph, "weekend"
6 means the period that begins Friday at 5:00 p.m. and
7 ends Monday at 8:00 a.m.; or

8 (8) The first hour on overtime status when the health care
9 employer is obtaining another respiratory therapist to
10 work in place of the respiratory therapist in overtime
11 status.

12 (d) The director of health shall adopt rules pursuant to
13 chapter 91 to implement this section.

14 (e) As used in this section, health care employer includes
15 public and private health care organizations or entities."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 5. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect on January 1, 2022.

2

INTRODUCED BY:

Lee Chan J



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Report Title:

Overtime Limitations; Nurses, Nurse Aids, Respiratory Therapists

Description:

Establishes overtime limitations for nurses, nurse aides, and respiratory therapists. Takes effect 1/1/2022.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

