

Summary of Overtime Limitations for Nurses

Alaska Statute 18.20.400 – 18.20.499



Alaska Statute 18.20.400 – 18.20.499 establishes that a Registered Nurse or Licensed Practical Nurse in a health care facility who is not employed in a federal or tribal facility may not be required or coerced, directly or indirectly, to work beyond his or her agreed-upon regular shift or accept overtime if in the judgment of the nurse, the overtime would jeopardize patient or employee safety.



Definitions: In AS 18.20.400 - 18.20.499:

- "health care facility" means a private, municipal, or state hospital; independent diagnostic testing facility; primary care outpatient facility; skilled nursing facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by the Department of Health and Social Services under AS 47.55; correctional facility owned or administered by the state; private, municipal, or state facility employing one or more public health nurses; long-term care facility; psychiatric hospital; residential psychiatric treatment center, as defined in AS 18.07.111 or AS 47.32.900; secure residential psychiatric treatment center under AS 47.12.990; juvenile detention facility; juvenile detention home, juvenile work camp, or treatment facility as defined in AS 47.12.990.
- "nurse" means an individual licensed to practice registered nursing or practical nursing under AS 08.68 who provides nursing services through direct patient care or clinical services and includes a nurse manager when delivering in- hospital patient care.
- "on-call" means a status in which a nurse must be ready to report to the health care facility and may be called to work by the health care facility.
- "overtime" means the hours worked in excess of a predetermined and regularly scheduled shift that is agreed to by a nurse and a health care facility.

Some Exceptions to Overtime Limitations for Nurses

Overtime limitations for nurses do not apply in the following situations:

[Note: the list below does not include all details of all exemptions and is provided for general information purposes]

- A school nurse employed by a health care facility on a field trip;
- A nurse voluntarily working overtime on an aircraft in use for medical transport;
- A nurse participating in the performance of a medical procedure that has begun but has not been completed;
- A nurse working during an unforeseen emergency that could jeopardize patient safety;
- A nurse working during an unforeseen weather condition;
- A nurse working at a rural health care facility that has declared a temporary nurse-staffing emergency;
- A nurse working on-call time that was previously agreed to by the nurse and a health care facility;

- A nurse who voluntarily works overtime in accordance with professional standards and safe patient care and does not exceed 14 consecutive hours;
- A nurse who voluntarily works beyond 80 hours in a 14-day period, providing the nurse works no more than 14 consecutive hours without a 10-hour break;
- A nurse who works the first two hours on overtime status while the health care facility secures his or her replacement, providing that nurse does not remain on duty for more than 14 consecutive hours, and,
- A nurse employed at a psychiatric treatment hospital that treats only children, or at a residential psychiatric treatment center that treats only children, or at a residential psychiatric treatment center as defined under AS 47.32.900, or at a secure residential psychiatric treatment center as defined under AS 47.12.990.

Enforcement and Penalties

Health Care Facility Reporting Requirements:

- Health care facilities shall provide for an anonymous process by which a patient or nurse may make a complaint about staffing levels and patient safety that relate to overtime work by nurses;
- Health care facilities are required to report overtime and on-call hours for nurses employed by a health care facility twice a year on a form provided by the Department of Labor and Workforce Development, unless the facility is a primary care outpatient facility, or the nurses are employed in federal or tribal facilities, and
- If a health care facility located in a rural community declares a temporary nurse staffing emergency, the facility shall notify the legislature immediately.

Employee Rights and Enforcement Procedure:

- The Department of Labor and Workforce Development (DOLWD) shall investigate all complaints alleging a violation of AS 18.20.400 – AS 18.20.499 *Overtime Limitations for Nurses*;
- An employee complaint is invalid unless filed with the Commissioner of DOLWD within 30 days after the date of the alleged violation, and,
- DOLWD shall provide a copy of the complaint to the health care facility named in the filing within three business days after receiving the complaint.
- Facilities found in violation shall receive an initial warning and then monetarily penalized. Each repeated offense carries an increased penalty amount from \$500 to \$25,000.

Prohibition of Retaliation

AS 18.20.440 prohibits a health care facility from discharging, disciplining, threatening, discriminating against, penalizing, or filing a report with the Board of Nursing against a nurse for exercising rights under AS 18.20.400 - 18.20.499 or for the good faith reporting of an alleged violation of AS 18.20.400 – 18.20.499.

NOTE: This is not a complete list of all requirements, definitions or exemptions to the Overtime Limitations for Nurses law. Refer to AS 18.20.400 – AS 18.20.499. The text above is intended for informational purposes only and is not to be construed as having the effect of law. "Overtime" in this context should not be confused with Alaska's overtime pay requirements under AS 23.10.060, as these laws are unrelated.

Inquiries should be made to: Wage and Hour, Alaska Department of Labor and Workforce Development, 1251 Muldoon Road, Suite 113, Anchorage, AK 99504, Phone: (907) 269-4900, Email: statewide.wagehour@alaska.gov.