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H.268

Introduced by Representatives Donovan of Burlington, Aswad of Burlington,
Bissonnette of Winooski, Davis of Washington, Edwards of
Brattleboro, Fisher of Lincoln, Larson of Burlington, Lorber of
Burlington, Macaig of Williston, Moran of Wardsboro, Nuovo
of Middlebury, Obuchowski of Rockingham, Partridge of
Windham, Poirier of Barre City, Shand of Weathersfield, South
of St. Johnsbury and Zuckerman of Burlington

Referred to Committee on

Date:

Subject: Labor; health care; safety; overtime; prohibition

Statement of purpose: This bill proposes to prohibit mandatory overtime for
certain health care employees of health care facilities.

An act relating to prohibiting mandatory overtime for health care employees

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing
agency shall issue a license when it determines that the applicant and hospital
facilities meet the following minimum standards:

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(17) The board of health may, when circumstances warrant, issue a temporary license for ~~such~~ a period or periods ~~and~~ subject to ~~such~~ conditions as the board ~~shall deem~~ deems proper, ~~subject to the limitation that such a~~ . A temporary license shall not be issued for a total period of more than 36 months. ~~Such~~ These circumstances ~~shall include issues concerning~~ indicators in the hospital's community report ~~which~~ that may result in the board issuing a license conditioned upon corrective measures or a temporary license with conditions.

(18) All hospitals shall submit to the licensing agency a plan for implementing the provisions of section 1852 of this title and a plan for handling patient complaints, ~~which~~. The plan shall become effective upon approval by the licensing agency. Plans under this subdivision ~~shall~~ include:

(A) ~~the~~ The designation of a person or persons qualified as a patient representative; .

(B) a A method by which each patient ~~shall be~~ is made aware of the complaint procedure; .

(C) ~~an~~ An appeals mechanism within the hospital itself;

(D) a A published time frame for processing and resolving complaints and appeals within the hospital, and notification that further appeals

1 of the hospital's resolution of complaints may be made to the licensing agency
2 under chapter 43 of this title :

3 (E) ~~periodic~~ Periodic reporting to the licensing agency of the nature
4 of complaints filed; and action taken.

5 * * *

6 (22)(A) No hospital shall require any employee to work in excess of
7 eight hours per day, in excess of 40 hours per week, or in excess of scheduled
8 hours. This subsection does not apply if there is an unforeseeable emergency
9 circumstance requiring overtime and the employer has exhausted other
10 reasonable efforts to obtain staff, documented in writing the reasonable efforts
11 taken, and the documentation is provided to the department of banking,
12 insurance, securities, and health care administration. The employer shall
13 provide the employee sufficient time, up to one hour, to arrange for the care of
14 the employee's minor children or elderly or disabled family members. If the
15 emergency is a declared national, state, or municipal emergency or other
16 disaster or catastrophic event that substantially affects or increases the need for
17 health care services, the employer is not required to exhaust all reasonable
18 efforts to obtain staff.

19 (B) Any mandatory overtime provision in a contract, agreement, or
20 understanding is unenforceable and void as against public policy. The
21 acceptance by any employee of work in excess of an agreed-upon,

1 predetermined, and regularly scheduled daily work period, which shall not
2 exceed 40 hours of work per week, shall be voluntary. An employer shall not
3 penalize, discharge, dismiss, or discriminate against in any way any employee
4 who refuses to accept overtime work. An employer that violates this
5 subdivision shall be fined in the amount of \$500.00 for each violation.

6 (C) The employer shall post in a location accessible and visible to the
7 employees and the public the requirements of this subdivision.

8 Sec. 2. DATA COLLECTION; OVERTIME; DEPARTMENT OF

9 BANKING, INSURANCE, SECURITIES, AND HEALTH CARE

10 ADMINISTRATION

11 The department of banking, insurance, securities, and health care
12 administration shall collect data from all health care facilities regarding the
13 potential impact of the mandatory overtime prohibition on employee
14 availability and other considerations. The findings shall be reported in writing
15 to the senate committee on health and welfare and the house committee on
16 human services no later than 12 months after passage of this act.