



1           (2) “Employer” means a person, partnership, association, corporation or group of persons  
2 acting directly or indirectly in the interest of a health care facility;

3           (3) “Health care facility” means a health care facility as defined in section 23-17-2(5);

4           (4) “Overtime work” means work in excess of either eight (8) hours per day or forty (40)  
5 hours per week;

6           (5) “Regular hourly wage” means the amount that an employee is regularly paid for each  
7 hour of work as determined by dividing the total hours of work during the week into the  
8 employee’s total earnings for the week, exclusive of pay for overtime work; and

9           (6) “Emergency” means the sudden onset of circumstances that in the absence of  
10 immediate medical attention could reasonably be expected to result in placing the health of  
11 patients in serious jeopardy, serious impairment to bodily or mental functions, or serious  
12 dysfunction of any bodily organ or part.

13           The term “emergency” shall include, but shall not be limited to, a disaster as that term is  
14 defined in chapter 15 of title 30, entitled “emergency management.”

15           **23-17.20-3. Overtime requirement.** -- (a) The requirement that an employee accept  
16 work in excess of an agreed to, predetermined scheduled work shift of eight (8), ten (10) or  
17 twelve (12) hours, not to exceed sixty (60) hours in any one (1) week, is contrary to public policy,  
18 and any such requirement contained in any contract, agreement or understanding executed after  
19 the effective date of this act shall be void.

20           (b) Notwithstanding any provision of law to the contrary, no health care facility shall  
21 require an employee to accept work in excess of an agreed to, predetermined scheduled work shift  
22 of eight (8), ten (10) or twelve (12) hours, not to exceed sixty (60) hours in any one (1) week.

23           (c) The refusal of any employee to accept such overtime work shall not be grounds for  
24 discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the  
25 employee. Such additional work shall not exceed four (4) hours for an agreed to, predetermined  
26 scheduled work shift of eight (8) hours or two (2) hours for an agreed to, predetermined  
27 scheduled work shift of ten (10) hours.

28           (d) In the event of an emergency, as the same is defined in section 23-17.20-2 herein, a  
29 health care facility shall require an employee to accept work in excess of an agreed to,  
30 predetermined scheduled work shift.

31           It shall not constitute a violation of this chapter for an employer to require an employee to  
32 work in a given instance in excess of the weekly time limitations set forth in this chapter,  
33 provided that the work of said employee in the given instance is required and directly related to  
34 the direct care of a particular patient; and provided further, that such work is not required from

1 the employee on a regular basis; and provided further, that an employer shall require such work  
2 only on a limited basis and which shall be in keeping with the intent and purpose of this chapter  
3 as set forth in section 23-17.20-1.

4 (e) Provided further that no work shift shall exceed twelve (12) hours during a twenty-  
5 four (24) hour period regardless of whether the overtime shift is voluntary or required, except in  
6 the event of an emergency as defined in this chapter.

7 **23-17.20-4. Penalty for violations.** -- Any employer who violates or fails to comply  
8 with any of the provisions of this chapter is liable to the employee affected for an amount equal to  
9 two (2) times the employee's regular hourly wage for each hour worked in violation of section  
10 23-17.20-3 herein, and this payment shall be treated as wages as defined in chapter 14 of title 28,  
11 and shall also be subject to a fine of up to three hundred dollars (\$300) for each violation of this  
12 chapter. This section shall be enforced by the director of the department of health.

13 **23-17.20-5. Collective bargaining agreements.** -- The provisions of this chapter shall  
14 not affect any existing collective bargaining agreements.

15 **23-17.20-6. Severability.** -- If any provision of this chapter, or the application of any  
16 provision to any person or circumstance, is held invalid, the remainder of the chapter and the  
17 application of the provision to other persons or circumstances are not affected by the invalidity.

18 SECTION 2. Sections 23-17-8 and 23-17-8.1 of the General Laws in Chapter 23-17  
19 entitled "Licensing of Health Care Facilities" are hereby amended to read as follows:

20 **23-17-8. Denial, suspension, or revocation of license** -- The licensing agency, after  
21 notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend, or  
22 revoke a license in any case in which it finds that there has been a failure to comply with the  
23 requirements established under this chapter or chapter 23-17.20. The notice shall be effected by  
24 registered or certified mail or by personal service, setting forth the particular reasons for the  
25 proposed action, and fixing a date not less than thirty (30) days from the date of the mailing or  
26 service, at which the applicant or licensee shall be given an opportunity for a prompt and fair  
27 hearing. On the basis of the hearing, or upon default of the applicant or licensee, the licensing  
28 agency shall make a determination specifying its findings of fact and conclusions of law. A copy  
29 of the determination shall be sent by registered or certified mail or served personally upon the  
30 applicant or licensee. The decision denying, suspending, or revoking the license or application  
31 shall become final thirty (30) days after it is so mailed or served, unless the applicant or licensee,  
32 within the thirty (30) day period, appeals the decision pursuant to section 42-35-15. The  
33 procedure governing hearings authorized by this section shall be in accordance with sections 42-  
34 35-9 -- 42-35-13 as stipulated in section 42-35-14(a). A full and complete record shall be kept of

1 all proceedings, and all testimony shall be reported but need not be transcribed unless the decision  
2 is appealed pursuant to section 42-35-15. A copy or copies of the transcript may be obtained by  
3 any interested party on payment of the cost of preparing the copy or copies. Witnesses may be  
4 subpoenaed by either party.

5 **23-17-8.1. Curtailment of activities.** -- Wherever the director determines that a health  
6 care facility licensed hereunder is not being operated in conformance with all of the requirements  
7 established under this chapter or chapter 23-17.20, the director may, in lieu of suspension or  
8 revocation of the license of the facility, order the licensee to admit no additional persons to the  
9 facility, to provide health services to no additional persons through the facility, to transfer all or  
10 some of the persons occupying the facility to other suitable accommodations, or to take any other  
11 corrective action necessary to secure compliance with the requirements established under this  
12 chapter or chapter 23-17.20. Notice of the order and such subsequent hearing as may be  
13 scheduled shall comply with the requirements of procedural due process stipulated in section 23-  
14 17-8. The director may act pursuant to this section only in those instances wherein the director  
15 determines that the continued operation of the facility will not result in undue hardship to its  
16 occupants.

17 SECTION 3. This act shall take effect on March 4, 2003.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY --  
HEALTH CARE FACILITIES STAFFING

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- 1           This act would establish a maximum work day for certain hourly wage nurse employees,
- 2   and would provide penalties for any violations.
- 3           This act would take effect on March 4, 2003.

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