

2017 -- H 5972

LC002168

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY - HEALTH CARE FACILITIES STAFFING

Introduced By: Representatives O'Brien, Johnston, Solomon, Almeida, and McKiernan

Date Introduced: March 22, 2017

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-17.20-2 of the General Laws in Chapter 23-17.20 entitled
2 "Health Care Facilities Staffing" is hereby amended to read as follows:

3 **23-17.20-2. Definitions.**

4 As used in this chapter:

5 (1) "Employee" means a nurse licensed pursuant to chapter 5-34, ~~and a certified nurse~~
6 ~~assistant registered pursuant to chapter 23-17.9, provided further, that such term shall not include~~
7 ~~certified registered nurse anesthetists or resident physicians; and provided further, that for~~
8 ~~purposes of this chapter, said nurse and/or nursing assistant shall be paid on the basis of an hourly~~
9 ~~wage~~ or any other person who provides or assists in providing direct medical care to a patient
10 including, but not limited to, a certified nurse assistant, respiratory therapist, diagnostic imaging
11 technologist or a surgical technologist; and provided that said person or persons provide or assist
12 in providing direct medical care to a patient; and provided further, that such term shall not include
13 resident physicians; and provided further, that for purposes of this chapter, said nurse and/or other
14 person providing or assisting in providing direct medical care to a patient shall be paid on the
15 basis of an hourly wage. As used in this chapter, the term "employee" shall not include a person
16 who is paid an annual salary, and shall not include employees who are working pre-scheduled
17 "on-call time" in the surgical department of a health care facility.

18 (2) "Employer" means a person, partnership, association, corporation or group of persons
19 acting directly or indirectly in the interest of a health care facility or any private, public, or state

1 [residential nursing facility](#);

2 (3) "Health care facility" means any private, public or state hospital;

3 (4) "On-call time" means time spent by an employee who is not working on the premises
4 of the place of employment but who is compensated for availability or who, as a condition of
5 employment, has agreed to be available to return to the premises of the place of employment on
6 short notice if the need arises;

7 (5) "Reasonable efforts" means that the employer shall:

8 (i) Seek persons who volunteer to work extra time from all available qualified staff who
9 are working at the time of the unforeseeable emergent circumstance;

10 (ii) Contact all qualified employees who have made themselves available to work extra
11 time; and

12 (iii) Seek the use of per diem staff;

13 (6) "Regular hourly wage" means the amount that an employee is regularly paid for each
14 hour of work as determined by dividing the total hours of work during the week into the
15 employee's total earnings for the week, exclusive of pay for overtime work;

16 (7) "Unforeseeable emergent circumstance" means an unpredictable occurrence relating
17 to health care delivery that requires immediate action, and which shall include a major power
18 outage, a public health emergency, an irregular increase in patient census, or an irregular increase
19 in the number of employees not reporting for predetermined scheduled work shifts.

20 SECTION 2. Section 36-4-41 of the General Laws in Chapter 36-4 entitled "Merit
21 System" is hereby amended to read as follows:

22 **36-4-41. Appeal from administrator of adjudication to appeal board.**

23 Any person, [or the elected representative union or association of a person](#), with
24 provisional, probationary, or permanent status who feels aggrieved by a decision of the
25 administrator of adjudication may, within thirty (30) calendar days of the rendering of a decision,
26 request in writing for the personnel appeal board to review the decision or conduct a public
27 hearing. Within thirty (30) calendar days of the receipt of the request, the personnel appeal board
28 shall make a report of its findings and recommendations to the governor based upon the decisions
29 of the administrator of adjudication or the testimony taken at a hearing. Copies of the report shall
30 be forwarded to the office of labor relations within the department of administration and to the
31 office of the administrator of adjudication. Within fifteen (15) calendar days of the receipt of the
32 report, the governor shall make his or her decision and so notify the appellant, the personnel
33 appeal board, administrator of adjudication, and the office of labor relations.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would broaden the definition of "employee" for purposes of health care facilities
2 staffing. In addition to nurses, employees would include assistants and technologists providing
3 direct medical care to patients. This act would also allow a person's union or association to file an
4 appeal from the administrator to the personnel appeal board.

5 This act would take effect upon passage.

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