

Legislative Analysis



MANDATORY OVERTIME FOR NURSES

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<http://www.house.mi.gov/hfa>

House Bill 5999 as introduced
Sponsor: Rep. Stephanie A. Young
Committee: Labor
Complete to 12-13-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5999 would amend the Public Health Code to prohibit a hospital from requiring a registered nurse (RN) to work overtime, except under specified circumstances, and to provide administrative sanctions for a violation. The bill also would require a hospital to provide an RN who works 12 or more consecutive hours there with eight hours off duty after that shift.

Prohibitions and exceptions

Under the bill, a hospital could not require an RN to work more than their regularly scheduled hours according to their predetermined work schedule. However, this prohibition would not apply in any of the following circumstances:

- If an RN voluntarily accepts a work assignment that causes their hours to exceed those regularly scheduled hours.
- If an RN is assisting with a patient-care procedure that extends beyond those regularly scheduled hours and the RN's immediate supervisor, other than a charge nurse, determines that the RN's absence during the procedure could have an adverse effect on the patient.
- During a *declared state of emergency* or *mass casualty incident*.

Declared state of emergency would mean an emergency declared by a person authorized by the state, the federal government, or a local government that is related to an unpredictable or unavoidable circumstance that affects the delivery of medical care and requires an immediate or exceptional level of emergency or other medical services at the hospital. It would not include an emergency that results from a labor dispute in the health care industry or consistent understaffing in the hospital.

Mass casualty incident would mean an event with a number of casualties that vastly exceeds the hospital's resources and capabilities and that occurs in a short and defined period of time.

The bill would prohibit a hospital from discharging, disciplining, threatening to discharge or discipline, or otherwise discriminating against an RN employed by the hospital with regard to the RN's compensation, terms, conditions, assignment, or privileges of employment because the RN refuses to accept a work assignment that causes their hours to exceed their regularly scheduled hours according to their predetermined work schedule.

The bill would provide that the refusal of a registered professional nurse (RN) to accept a hospital's request to work more than their regularly scheduled hours according to their predetermined work schedule is not, by itself, grounds for disciplinary action under the code.

Required time off duty

The bill also would require a hospital to provide an RN who works 12 or more consecutive hours at the hospital with eight consecutive hours of off-duty time immediately after the RN completes that shift.

Notice

A hospital would have to post a notice that informs RNs employed by the hospital of the provisions of the bill and how to file a complaint with the Department of Licensing and Regulatory Affairs (LARA) for a suspected violation. The notice would have to be posted in one or more conspicuous places where notices to hospital employees are customarily posted and on the hospital's intranet site if it uses an intranet site to communicate with its employees.

Sanctions for violation

Sanctions

If LARA determines that a hospital has violated any of the provision described above, it would have to impose a \$1,000 administrative fine on the hospital for each violation. In addition, LARA could deny, limit, suspend, or revoke the hospital's license or certification after notice and a hearing as prescribed in section 20165 of the code.

MCL 333.20165 and proposed MCL 333.17233 and 333.21526

The bill would take effect 90 days after it is enacted. However, if a collective bargaining agreement that prevents compliance with the bill is in effect for hospital employees when the bill takes effect, the bill would not apply until after that agreement expires.

FISCAL IMPACT:

House Bill 4551 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and publicly owned hospitals. The bill would allow LARA to impose a \$1,000 administrative fine on hospitals for violating provisions related to nurse working schedules. The fine would only be assessed in the event that a violation of the provisions set forth under the bill occurs, but publicly owned hospitals would be liable for the administrative fine if such a violation were to occur.

The bill also would have an indeterminate, but possibly significant, fiscal impact on the state Medicaid program. The primary fiscal cost driver would be any overall hospital cost increases based in the hiring of additional nurses in based on limiting the use of mandatory overtime and the degree in which Medicaid provides reimbursements for the overall hospital cost increase. For fiscal year 2024-25, any fiscal impact related to Medicaid reimbursements would be financed with federal and state funds at 65.13% and 34.87%, respectively.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.