

FIRST REGULAR SESSION

# HOUSE BILL NO. 264

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOLLAND, CAMPBELL, SHOEMAKER (8) (Co-sponsors),  
LOWE AND PORTWOOD.

Read 1<sup>st</sup> time January 23, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1020L.021

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### AN ACT

To amend chapter 197, RSMo, by adding thereto three new sections relating to nurse staffing requirements in hospitals.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 197, RSMo, is amended by adding thereto three new sections, to be  
2 known as sections 197.677, 197.678, and 197.680, to read as follows:

**197.677. 1. As used in sections 197.677 to 197.680, the following terms mean:**

2 **(1) "Acuity system", a system that:**

3 **(a) Predicts nursing care requirements for individual patients based on severity of**  
4 **patient illness, need for specialized equipment and technology, and intensity of nursing**  
5 **interventions required;**

6 **(b) Determines the amount of nursing care needed, both in number and skill mix**  
7 **of nursing staff required on a daily basis for each patient in a nursing unit; and**

8 **(c) Is stated in terms that readily can be used and understood by direct care**  
9 **nursing staff;**

10 **(2) "Direct care nursing staff", any nurse who has direct responsibility to oversee**  
11 **or carry out nursing care and treatment for one or more patients;**

12 **(3) "Hospital", the same meaning as such term is given in section 197.020;**

13 **(4) "Nurse", a registered professional nurse or licensed practical nurse as defined**  
14 **in section 335.016, RSMo;**

15 **(5) "Retaliatory action", the discipline, discharge, suspension, demotion,**  
16 **harassment, denial of employment or promotion, layoff, or any other adverse action taken**  
17 **against a nurse as a result of a nurse taking any action described in sections 197.650 to**  
18 **197.680;**

19           (6) "Skill mix", refers to the differences in licensing, areas of specialization,  
20 education, training, and experience among direct care nursing staff;

21           (7) "Staffing plan", a hospital's written plan for meeting the expected nursing care  
22 requirements of its patients;

23           (8) "Unforeseeable emergent circumstance", an unpredictable or unavoidable  
24 occurrence of nature or catastrophic event which could not have been prevented by the  
25 exercise of any reasonable foresight or precaution and which has an immediate adverse  
26 impact on a hospital's staffing requirements.

          197.678. 1. Immediately upon learning that staffing on any shift will fall below the  
2 minimum number of direct care nursing staff required for that shift by the hospital's  
3 staffing plan and acuity system, and prior to requiring any direct care nursing staff or  
4 unlicensed assistive personnel to work overtime, the hospital shall first attempt to fill its  
5 staffing needs based on the acuity system through other means, including requesting off-  
6 duty staff to voluntarily report to work and requesting on-duty staff to volunteer for  
7 overtime hours and using the hospital's on-call list. Each replacement direct care nursing  
8 staff shall have a skill mix appropriate to the unit to which assigned.

9           2. Except as provided in subsections 4 and 5 of this section and in subsection 1 of  
10 section 197.680, a hospital shall not mandate or otherwise require a nurse to work in excess  
11 of any of the following:

12           (1) The nurse's regularly scheduled shift or duty period;

13           (2) More than twelve hours in a twenty-four hour time period;

14           (3) Eighty hours in a fourteen consecutive-day period.

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16 As used in this subsection and section 197.680, "mandate" or "mandatory" means any  
17 request which if refused or declined by the nurse may result in retaliatory action against  
18 the nurse. Nothing in this subsection shall prohibit a nurse from voluntarily working in  
19 excess of the provisions of this subsection.

20           3. Except as provided in subsection 2 of section 197.680, a hospital shall not  
21 authorize or permit a nurse to perform patient care services for more than sixteen hours  
22 in a twenty-four hour period. Any nurse performing patient care services for sixteen hours  
23 in any twenty-four hour period must have at least eight consecutive hours off duty before  
24 being authorized or permitted to return to patient care duties. No nurse shall be  
25 authorized or permitted to provide patient care for more than seven consecutive days  
26 without at least one consecutive twenty-four hour period off duty within such time.

27           4. Direct care nursing staff shall not place a patient at risk of harm by abandoning  
28 a patient care assignment.

**197.680. 1. During a declared national or state emergency or unforeseeable emergent circumstance in which a hospital has a direct role in responding to medical needs resulting from the declared emergency or unforeseeable emergent circumstance, the mandatory overtime prohibition in subsection 2 of section 197.678 shall not apply to the following extent:**

**(1) Direct care nursing staff and unlicensed assistive personnel may be required to work or be on duty up to the maximum hour limitations set forth in subsection 3 of section 197.678 provided the hospital has taken the steps set forth in subsection 4 of section 197.678 and made reasonable efforts to fill its immediate staffing needs through alternative efforts, including requesting off-duty staff to voluntarily report to work and requesting on-duty nurses to volunteer for overtime hours; and**

**(2) The exemption granted by this section shall not exceed the duration of the declared national or state emergency or unforeseeable emergent circumstance and the hospital's direct role in responding to medical needs resulting from the declared state of emergency or unforeseeable emergent circumstance.**

**2. During a declared national or state emergency or unforeseeable emergent circumstance in which a hospital has a direct role in responding to medical needs resulting from the declared emergency or unforeseeable emergent circumstance, the maximum hours limitation set forth in subsection 3 of section 197.678 shall not apply if:**

**(1) The decision to work the additional time is voluntarily made by the affected nurse;**

**(2) The nurse is given at least one uninterrupted four-hour rest period before returning to patient care duties following the completion of a sixteen hour shift and an uninterrupted eight-hour rest period before returning to patient care duties following the completion of a twenty-four hour shift;**

**(3) Any nurse who has been on duty for more than sixteen hours in a twenty-four hour period who informs appropriate advisory personnel that he or she needs immediate rest shall be relieved from duty as soon thereafter as possible consistent with patient safety needs and given at least eight uninterrupted hours off duty before being required to return to duty;**

**(4) The exemption granted by this subsection shall not exceed the duration of the declared national or state emergency or unforeseeable emergent circumstance and the hospital's direct role in responding to medical needs resulting from the declared state of emergency or unforeseeable emergent circumstance.**

**As used in this subsection, "rest period" means a period in which an individual may or**

37 **may not be required to remain on the premises of the hospital but is free of all restraint,**  
38 **duty, or responsibility for work.**