

JAN 22 2021

## A BILL FOR AN ACT

RELATING TO WORK HOURS.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§457- Nurses; overtime limitations. (a) Except as provided in subsection (c), no nurse employed by a health care employer shall be required or coerced, directly or indirectly:

(1) To work beyond a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care employer;

(2) To work beyond eighty hours in a fourteen-day period; or

(3) To accept an assignment of overtime if, in the judgment of the nurse, the overtime would jeopardize patient or employee safety.

(b) Except as provided in subsection (c), after working a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care employer pursuant to subsection



1 (a) (1), the nurse shall be allowed not less than ten consecutive  
2 hours of off-duty time immediately following the end of the  
3 shift.

4 (c) Subsection (a) shall not apply to:

5 (1) A nurse who is employed by a health care employer that  
6 provides services for a school, school district, or  
7 other educational institution, when the nurse is on  
8 duty for more than fourteen consecutive hours during  
9 an occasional special event, such as a field trip,  
10 that is sponsored by the employer;

11 (2) A nurse who voluntarily works overtime on an aircraft  
12 in use for medical transport; provided that the shift  
13 worked is allowable under rules adopted by the state  
14 board of nursing pursuant to chapter 91;

15 (3) A nurse on duty in overtime status because of an  
16 unforeseen emergency that could otherwise jeopardize  
17 patient safety; provided that as used in this  
18 paragraph, "unforeseen emergency" means an unusual,  
19 unpredictable, or unforeseen situation caused by an  
20 act of terrorism; outbreak of disease; natural  
21 disaster; or a declared national, state, or local



1       emergency but shall not include a situation in which a  
2       health care employer has reasonable knowledge of  
3       increased patient volume or inadequate staffing  
4       because of some other cause, if that cause is  
5       foreseeable;

6       (4) A nurse who is fulfilling on-call time that is agreed  
7       upon by the nurse and a health care employer before it  
8       is scheduled;

9       (5) A nurse who voluntarily works overtime; provided that  
10      the work is consistent with professional standards and  
11      safe patient care and does not exceed fourteen  
12      consecutive hours;

13      (6) A nurse who voluntarily works beyond eighty hours in a  
14      fourteen-day period; provided that the nurse does not  
15      work more than fourteen consecutive hours without a  
16      ten-hour break and the work is consistent with  
17      professional standards and safe patient care;

18      (7) A nurse who agrees to work under a contract that  
19      requires the employer to provide full-time pay and  
20      benefits equivalent to the pay and benefits for a  
21      forty-hour workweek if the nurse works a weekend



1 schedule of four eight-hour shifts, with not more than  
2 sixteen consecutive hours on duty without a break of  
3 at least eight hours; provided that as used in this  
4 paragraph, "weekend" means the period that begins  
5 Friday at 5:00 p.m. and ends Monday at 8:00 a.m.; or

6 (8) The first hour on overtime status when the health care  
7 employer is obtaining another nurse to work in place  
8 of the nurse in overtime status.

9 (d) The state board of nursing shall adopt rules pursuant  
10 to chapter 91 to implement this section.

11 (e) As used in this section, health care employer includes  
12 public and private health care organizations or entities."

13 SECTION 2. Chapter 457A, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16 **"§457A- Nurse aides; overtime limitations. (a) Except**  
17 **as provided in subsection (c), no nurse aide employed by a**  
18 **health care employer shall be required or coerced, directly or**  
19 **indirectly:**



(1) To work beyond a predetermined and regularly scheduled shift that is agreed to by the nurse aide and the health care employer;

(2) To work beyond eighty hours in a fourteen-day period;  
or

(3) To accept an assignment of overtime if, in the judgment of the nurse aide, the overtime would jeopardize patient or employee safety.

(b) Except as provided in subsection (c), after working a predetermined and regularly scheduled shift that is agreed to by the nurse aide and the health care employer pursuant to subsection (a)(1), the nurse aide shall be allowed not less than ten consecutive hours of off-duty time immediately following the end of the shift.

(c) Subsection (a) shall not apply to:

(1) A nurse aide who is employed by a health care employer that provides services for a school, school district, or other educational institution, when the nurse aide is on duty for more than fourteen consecutive hours during an occasional special event, such as a field trip, that is sponsored by the employer;



- 1        (2) A nurse aide who voluntarily works overtime on an  
2        aircraft in use for medical transport; provided that  
3        the shift worked is allowable under rules adopted by  
4        the director of health pursuant to chapter 91;
- 5        (3) A nurse aide on duty in overtime status because of an  
6        unforeseen emergency that could otherwise jeopardize  
7        patient safety; provided that as used in this  
8        paragraph, "unforeseen emergency" means an unusual,  
9        unpredictable, or unforeseen situation caused by an  
10       act of terrorism; outbreak of disease; natural  
11       disaster; or a declared national, state, or local  
12       emergency but shall not include a situation in which a  
13       health care employer has reasonable knowledge of  
14       increased patient volume or inadequate staffing  
15       because of some other cause, if that cause is  
16       foreseeable;
- 17       (4) A nurse aide who is fulfilling on-call time that is  
18       agreed upon by the nurse aide and a health care  
19       employer before it is scheduled;
- 20       (5) A nurse aide who voluntarily works overtime; provided  
21       that the work is consistent with professional



standards and safe patient care and does not exceed  
fourteen consecutive hours;

(6) A nurse aide who voluntarily works beyond eighty hours  
in a fourteen-day period; provided that the nurse aide  
does not work more than fourteen consecutive hours  
without a ten-hour break and the work is consistent  
with professional standards and safe patient care;

(7) A nurse aide who agrees to work under a contract that  
requires the employer to provide full-time pay and  
benefits equivalent to the pay and benefits for a  
forty-hour workweek if the nurse aide works a weekend  
schedule of four eight-hour shifts, with not more than  
sixteen consecutive hours on duty without a break of  
at least eight hours; provided that as used in this  
paragraph, "weekend" means the period that begins  
Friday at 5:00 p.m. and ends Monday at 8:00 a.m.; or

(8) The first hour on overtime status when the health care  
employer is obtaining another nurse aide to work in  
place of the nurse aide in overtime status.

(d) The director of health shall adopt rules pursuant to  
chapter 91 to implement this section.



(e) As used in this section, health care employer includes public and private health care organizations or entities."

SECTION 3. Chapter 466D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§466D- Respiratory therapists; overtime limitations.**

(a) Except as provided in subsection (c), no respiratory therapist employed by a health care employer shall be required or coerced, directly or indirectly:

(1) To work beyond a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care employer;

(2) To work beyond eighty hours in a fourteen-day period;  
or

(3) To accept an assignment of overtime if, in the judgment of the nurse, the overtime would jeopardize patient or employee safety.

(b) Except as provided in subsection (c), after working a predetermined and regularly scheduled shift that is agreed to by the nurse and the health care employer pursuant to subsection (a)(1), the respiratory therapist shall be allowed not less than





1 ten consecutive hours of off-duty time immediately following the  
2 end of the shift.

3 (c) Subsection (a) shall not apply to:

4 (1) A respiratory therapist who is employed by a health  
5 care employer that provides services for a school,  
6 school district, or other educational institution,  
7 when the nurse is on duty for more than fourteen  
8 consecutive hours during an occasional special event,  
9 such as a field trip, that is sponsored by the  
10 employer;

11 (2) A respiratory therapist who voluntarily works overtime  
12 on an aircraft in use for medical transport; provided  
13 that the shift worked is allowable under rules adopted  
14 by the director of health pursuant to chapter 91;

15 (3) A respiratory therapist on duty in overtime status  
16 because of an unforeseen emergency that could  
17 otherwise jeopardize patient safety; provided that as  
18 used in this paragraph, "unforeseen emergency" means  
19 an unusual, unpredictable, or unforeseen situation  
20 caused by an act of terrorism; outbreak of disease;  
21 natural disaster; or a declared national, state, or



1 local emergency but shall not include a situation in  
2 which a health care employer has reasonable knowledge  
3 of increased patient volume or inadequate staffing  
4 because of some other cause, if that cause is  
5 foreseeable;

6 (4) A respiratory therapist who is fulfilling on-call time  
7 that is agreed upon by the nurse and a health care  
8 employer before it is scheduled;

9 (5) A respiratory therapist who voluntarily works  
10 overtime; provided that the work is consistent with  
11 professional standards and safe patient care and does  
12 not exceed fourteen consecutive hours;

13 (6) A respiratory therapist who voluntarily works beyond  
14 eighty hours in a fourteen-day period; provided that  
15 the respiratory therapist does not work more than  
16 fourteen consecutive hours without a ten-hour break  
17 and the work is consistent with professional standards  
18 and safe patient care;

19 (7) A respiratory therapist who agrees to work under a  
20 contract that requires the employer to provide full-  
21 time pay and benefits equivalent to the pay and



1        benefits for a forty-hour workweek if the respiratory  
2        therapist works a weekend schedule of four eight-hour  
3        shifts, with not more than sixteen consecutive hours  
4        on duty without a break of at least eight hours;  
5        provided that as used in this paragraph, "weekend"  
6        means the period that begins Friday at 5:00 p.m. and  
7        ends Monday at 8:00 a.m.; or

8        (8) The first hour on overtime status when the health care  
9        employer is obtaining another respiratory therapist to  
10       work in place of the respiratory therapist in overtime  
11       status.

12       (d) The director of health shall adopt rules pursuant to  
13       chapter 91 to implement this section.

14       (e) As used in this section, health care employer includes  
15       public and private health care organizations or entities."

16       SECTION 4. This Act does not affect rights and duties that  
17       matured, penalties that were incurred, and proceedings that were  
18       begun before its effective date.

19       SECTION 5. New statutory material is underscored.



# S.B. NO. 558

1       SECTION 6. This Act shall take effect on January 1, 2022.

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INTRODUCED BY:

*Lee Chan J.*



# S.B. NO. 558

**Report Title:**

Overtime Limitations; Nurses, Nurse Aids, Respiratory Therapists

**Description:**

Establishes overtime limitations for nurses, nurse aides, and respiratory therapists. Takes effect 1/1/2022.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

