

2018 -- S 2397 AS AMENDED

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LC004481
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTH CARE FACILITIES STAFFING

Introduced By: Senators Conley, Gallo, Seveney, Satchell, and Goldin

Date Introduced: February 15, 2018

Referred To: Senate Health & Human Services

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 such term shall not include resident
12 physicians; and provided further, that for purposes of this chapter, said nurse and/or other person
13 providing or assisting in providing direct medical care to a patient shall be paid on the basis of an
14 hourly wage. As used in this chapter, the term "employee" shall not include a person who is paid
15 an annual salary, and shall not include employees who are working pre-scheduled "on-call time"
16 in the surgical department of a health care facility.

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

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

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

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

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

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

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

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

15 (7) "Unforeseeable emergent circumstance" means an unpredictable occurrence relating
16 to health care delivery that requires immediate action, to provide proper patient care and which
17 shall include a major power outage, a public health emergency, an irregular increase in patient
18 census, ~~or~~ an irregular increase in the number of employees not reporting for predetermined
19 scheduled work shifts or such other emergency that in the reasonable judgement of the employer
20 endangers patient welfare requiring that within ten (10) days of such determination, the employer
21 must provide the employee a written statement of the facts constituting the danger to patient
22 welfare.

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

25 **36-4-41. Appeal from administrator of adjudication to appeal board.**

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

1 report, the governor shall make his or her decision and so notify the appellant, the personnel
2 appeal board, administrator of adjudication, and the office of labor relations.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY -- HEALTH CARE FACILITIES STAFFING

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

5 This act would take effect upon passage.

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