

The Nurse Overtime and Patient Safety Act

Section 1: SHORT TITLE.

Nurse Overtime and Patient Safety Act

Section 2: FINDINGS.

Section 3: LIMITATIONS ON MANDATORY OVERTIME FOR NURSES.

- 1. Prohibition on mandatory overtime.**—A provider of services shall not, directly or indirectly, require a nurse to work in excess of—
- a previously scheduled work shift or duty period of the nurse, regardless of the length of the shift;
 - 48 hours in any workweek; or
 - 12 consecutive hours in a 24-hour period; or
 - during the 10-hour period immediately following the 12th hour worked in a shift or duty period during a 24-hour period.

Time spent by a nurse in the following shall be included as hours worked:

- Required meetings or while receiving education or training.
- When the nurse is on call or on standby.

Nothing in this subsection shall be construed to preclude a nurse from volunteering to work overtime.

- 2. Exceptions.**—The mandatory overtime prohibitions shall not apply to a provider of services during a declared emergency or disaster if the provider is requested, or otherwise is expected, to provide an exceptional level of emergency or other medical services to the community. With respect to a provider of services to which a declared emergency or disaster applies, a nurse may only be required to work for periods in excess of the prohibitions on mandatory overtime if—
- the provider has made reasonable efforts to fill the immediate staffing needs through alternative means;
 - the duration of the work requirement does not extend past the earlier of—
 - the date on which the declared emergency or disaster ends; or
 - the date on which the provider's direct role in responding to the medical needs resulting from the declared emergency or disaster ends;
 - a staff vacancy for the next shift becomes known at the end of the current shift; and
 - there is potential harm to an assigned patient if the nursing staff member leaves the assignment or transfers care to another nursing staff member.
- 3. Whistleblower protections for nurses.**— A nurse may file a complaint with the Secretary against a provider of services who violates the provisions of this subsection.
- The Secretary shall establish a procedure for a nurse to file a complaint.
 - The Secretary shall investigate complaints of violations.
 - If the Secretary determines that a provider of services has violated the provisions of this subsection, the Secretary shall require the provider to establish a plan of action to eliminate the occurrence of such violation, and the Secretary may seek civil money penalties.
- 4. Nurse nondiscrimination protections.**— A provider of services shall not terminate or propose to terminate, penalize, discriminate, or retaliate in any manner with respect to any aspect of employment, including discharge, promotion, compensation, or terms, conditions, or privileges of employment, against a nurse who refuses to work mandatory overtime or who in good faith, individually or in conjunction with another person or persons—
- reports a violation or suspected violation;
 - initiates, cooperates, or otherwise participates in an investigation or proceeding brought by a regulatory agency or private accreditation body concerning matters covered by this subsection; or

- c) informs or discusses with other employees, with representatives of those employees, or with representatives of associations of health care professionals, violations or suspected violations.

Retaliatory reporting.—A provider of services may not file a complaint or a report against a nurse with the appropriate State professional disciplinary agency because the nurse refused to comply with a request to work mandatory overtime.

Good faith.—A nurse is deemed to be acting in good faith if the nurse reasonably believes that the information reported or disclosed is true; and that a violation has occurred or may occur.

5. Notice policy and requirements.—

- a) Requirement to develop a policy and procedure.—Each provider of services shall develop a policy and have in place procedures to ensure, at a minimum, that—
 - a. mandatory overtime, when required, is documented in writing; and
 - b. mandatory overtime policies and procedures are clearly written, provided to all new nursing staff and readily available to all nursing staff.
- b) Requirement to post notice.—Each provider of services shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying rights of nurses under this subsection.
- c) Right to file complaint.—Such sign shall include a statement that a nurse may file a complaint with the Secretary against a provider of services who violates the provisions of this subsection and information with respect to the manner of filing such a complaint.

6. Posting of nurse schedules.— A provider of services shall regularly post in a conspicuous manner the nurse schedules for the department or unit involved, and shall make available upon request to nurses assigned to the department or unit the daily nurse schedule for such department or unit.

7. Civil money penalty.—

- a) The Secretary may impose a civil money penalty of not more than \$10,000 for each knowing violation of the provisions of this subsection committed by a provider of services.
- b) The Secretary shall provide for the imposition of more severe civil money penalties for providers of services that establish patterns of repeated violations of such provisions.
- c) The Secretary shall publish on the HHS website the names or providers of services against which civil money penalties have been imposed, the violation for which the penalty was imposed, and such additional information the Secretary determines appropriate.

8. Rule of construction regarding other rights, remedies, and procedures.— Nothing in this subsection shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to nurses under Federal, State, or local laws or under the terms of collective bargaining agreements, memorandums of understanding, or other agreements between such employees and their employers.

9. Definitions.

10. Relationship to state law.— Nothing in this subsection shall be construed to preempt any State law that provides greater protections with respect to mandatory overtime for nurses.

Section 4: REPORTS.

- a) **Standards on Safe Working Hours for Nurses.—** The Secretary of Health and Human Services shall conduct a study to establish appropriate standards for the maximum number of hours that a nurse who furnishes health care to patients may work without compromising the safety of such patients. Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted and shall include recommendations for such appropriate standards of maximum work hours.

- b) **Report on Mandatory Overtime in Federally Operated Medical Facilities.**— The Director of the Office of Management and Budget shall conduct a study to determine the extent to which federally operated medical facilities have in effect practices and policies with respect to overtime requirements for nurses that are inconsistent with this Act. Not later than 6 months after the date of the enactment of this Act, the Director shall submit to Congress a report on the study conducted and shall include recommendations for the implementation of policies within federally operated medical facilities with respect to overtime requirements for nurses.