

**Joint Committee on Administrative Rules**  
**ADMINISTRATIVE CODE**

TITLE 77: PUBLIC HEALTH  
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
 SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES  
 PART 250 HOSPITAL LICENSING REQUIREMENTS  
 SECTION 250.1110 MANDATORY OVERTIME PROHIBITION

**Section 250.1110 Mandatory Overtime Prohibition**

- a) As used in this Section, the following definitions apply:

"Agreed-to, predetermined shift" – nursing hours of work, provided in advance to staff, in a prospective nurse staffing schedule for each patient care unit. Any work hours in addition to the predetermined shifts or prospective work schedule must be agreed to between the nurse employee and the employer. The agreed-to, predetermined shift may include "on call" but does not include other overtime staffing mechanisms in which a nurse employee's work, or availability to work additional hours, is at the sole discretion of the employer.

*"Mandated overtime" – work that is required by the hospital in excess of an agreed-to, predetermined work shift. Time spent by nurses required to be available as a condition of employment in specialized units, such as surgical nursing services, shall not be counted or considered in calculating the amount of time worked for the purpose of applying the prohibition against mandated overtime. (Section 10.9(a) of the Act)*

*"Nurse" – any advanced practice nurse, registered professional nurse, or licensed practical nurse, as defined in the Nursing and Advanced Practice Nursing Act, who receives an hourly wage and has direct responsibility to oversee or carry out nursing care. For the purposes of this Section, "advanced practice nurse" does not include a certified registered nurse anesthetist who is primarily engaged in performing the duties of a nurse anesthetist. (Section 10.9(a) of the Act)*

"On-call/available" – the voluntary agreement by any nurse to be assigned specific agreed-to, predetermined hours of availability for work as a condition of employment. Additional hours of on-call in excess of the nurse's predetermined hours of work shall be strictly voluntary.

"Overtime" – the hours of work in excess of an agreed-to predetermined regularly scheduled shift, not to exceed 40 hours of work in a seven-day workweek.

"Retaliation" – disciplining, discharging, suspending, demoting, harassing,

denying employment or promotion, laying off, or taking any adverse action against a nurse.

"Specialized unit" – a unit, such as surgical nursing services.

"Substantially affect" – affecting a situation, except for deviations that result in unimportant changes, given the particular situation involved.

"Unforeseen emergent circumstances" –

*Any declared national, State or municipal disaster or other catastrophic event, or implementation of a hospital's disaster plan, that will substantially affect or increase the need for health care services; or*

*Any circumstances in which patient care needs require specialized nursing skills through the completion of a procedure.*

*An "unforeseen emergent circumstance" does not include situations in which the hospital fails to have enough nursing staff to meet the usual and reasonably predictable nursing needs of its patient. (Section 10.9(a) of the Act)*

- b) *Mandated overtime is prohibited. No nurse shall be required to work mandated overtime except in the case of an unforeseen emergent circumstance when such overtime is required only as a last resort.*
- 1) *Such mandated overtime shall not exceed 4 hours beyond an agreed-to, predetermined work shift. (Section 10.9(b) of the Act)*
  - 2) *Time spent by nurses required to be available as a condition of employment in specialized units, such as surgical nursing services, shall not be counted or considered in calculating the amount of time worked for the purpose of applying the prohibition against mandating overtime. (Section 10.9(a) of the Act)*
  - 3) *For any nurse who does not agree to employment requiring on-call hours, the refusal of a nurse employee to agree to such on-call availability shall not constitute grounds for retaliation, discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decisions adverse to the nurse employee.*
  - 4) *The hospital's written staffing plan shall include an on-call policy for those units where on-call is required as a condition of employment.*
  - 5) *On-call is not to be used to fill vacancies resulting from chronic or foreseeable staff shortages.*
- c) *When a nurse is mandated to work up to 12 consecutive hours, the nurse shall be allowed at least 8 consecutive hours of off-duty time immediately following the completion of a shift. (Section 10.9(c) of the Act)*

- d) *No hospital shall discipline, discharge, or take any other adverse employment action against a nurse solely because the nurse refused to work mandated overtime as prohibited under subsection (b) of this Section. (Section 10.9(d) of the Act)*
- e) *Violations*
- 1) *Any employee of a hospital that is subject to the Act and this Part may file a complaint with the Department of Public Health regarding an alleged violation of the Act. (Section 10.9(e) of the Act)*
- A) A complaint shall be submitted to the Department in writing, by telephone, or by personal visit.
- B) An oral complaint will be reduced to writing by the Department.
- 2) *The complaint shall be filed within 45 days following the occurrence of the incident giving rise to the alleged violation. The Department will forward notification of the alleged violation to the hospital in question within 3 business days after the complaint is filed. (Section 10.9(e) of the Act)*
- 3) *Upon receiving a complaint of a violation of this Section, the Department may take any action authorized under Section 7 or 9 of the Act. (Section 10.9(e) of the Act)*
- f) *Any violation of this Section shall be proved by clear and convincing evidence that a nurse was required to work overtime against his or her will. The hospital may defeat the claim of a violation by presenting clear and convincing evidence that an unforeseen emergent circumstance, which required overtime work, existed at the time the employee was required or compelled to work. (Section 10.9(f) of the Act) Hearings shall be conducted in accordance with Section 250.140 of this Part.*

(Source: Added at 31 Ill. Reg. 14530, effective October 3, 2007)

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SECTION 250.1120 STAFFING LEVELS

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**Section 250.1120 Staffing Levels**

- a) As used in this Section, the following definitions apply:

*"Nursing care" – care that falls within the scope of practice set forth in the Nursing and Advanced Practice Nursing Act or is otherwise encompassed within recognized professional standards of nursing practice, including assessment, nursing diagnosis, planning, intervention, evaluation, and patient advocacy. (Section 10 of the Hospital Report Card Act [210 ILCS 86])*

*"Staffing levels" – the numerical nurse to patient ratio by licensed nurse classification within a nursing department or unit. (Section 10 of the Hospital Report Card Act)*

*"Unit" – a functional division or area of a hospital in which nursing care is provided. (Section 10 of the Hospital Report Card Act)*

- b) *The number of registered professional nurses, licensed practical nurses, and other nursing personnel assigned to each patient care unit shall be consistent with the types of nursing care needed by the patients and the capabilities of the staff. Patients on each unit shall be evaluated near the end of each change of shift by criteria developed by the nursing service. There shall be staffing schedules reflecting actual nursing personnel required for the hospital and for each patient unit. Staffing patterns shall reflect consideration of nursing goals, standards of nursing practice, and the needs of the patients. (Section 15 of the Hospital Report Card Act)*
- c) *Current nursing staff schedules shall be available upon request at each patient care unit. Each schedule shall list the daily assigned nursing personnel and average daily census for the unit. The actual nurse staffing assignment roster for each patient care unit shall be available upon request at the patient care unit for the effective date of that roster. Upon the roster's expiration, the hospital shall retain the roster for 5 years from the date of its expiration. (Section 15 of the Hospital Report Card Act)*
- d) *All records required under this Section and Section 15 of the Hospital Report Card Act, including anticipated staffing schedules and the methods*

*to determine and adjust staffing levels, shall be made available to the public upon request. (Section 15 of the Hospital Report Card Act)*

e) *All records required under this Section and Section 15 of the Hospital Report Card Act shall be maintained by the facility for no less than 5 years. (Section 15 of the Hospital Report Card Act)*

f) *A hospital covered by the Hospital Report Card Act shall not penalize, discriminate, or retaliate in any manner against an employee with respect to compensation or the terms, conditions, or privileges of employment who in good faith, individually or in conjunction with another person or persons, reports violations of the Hospital Licensing Act or the Hospital Report Card Act pursuant to Sections 35 and 40 of the Hospital Report Card Act. (Section 35 of the Hospital Report Card Act)*

(Source: Added at 31 Ill. Reg. 14530, effective October 3, 2007)