

Language banning mandatory overtime in Health Care Payment Reform

Section 226. For purposes of this section, “mandatory overtime” shall mean any hours worked by a nurse in a hospital setting to deliver patient care, beyond the predetermined and regularly scheduled number of hours that the hospital and nurse have agreed that the employee shall work, provided that in no case shall such predetermined and regularly scheduled number of hours exceed 12 hours in any 24 hour period.

(b) Notwithstanding any general or special law to the contrary, a hospital shall not require a nurse to work mandatory overtime except in the case of an emergency situation where the safety of the patient requires its use and when there is no reasonable alternative.

(c) Under subsection (b), whenever there is an emergency situation where the safety of a patient requires its use and when there is no reasonable alternative, the facility shall, before requiring mandatory overtime, make a good faith effort to have overtime covered on a voluntary basis. Mandatory overtime shall not be used as a practice for providing appropriate staffing for the level of patient care required.

(d) Under subsection (c), the health policy commission established under [section 2 of chapter 6D](#), shall develop guidelines and procedures to determine what constitutes an emergency situation for the purposes of allowing mandatory overtime. In developing those guidelines, the commission shall consult with those employees and employers who would be affected by such a policy. The Commission shall solicit comment from those same parties through a public hearing.

(e) Hospitals shall report all instances of mandatory overtime and the circumstances requiring its use to the department of public health. Such reports shall be public documents.

(f) A nurse shall not be allowed to exceed 16 consecutive hours worked in a 24 hour period. In the event a nurse works 16 consecutive hours, that nurse must be given at least 8 consecutive hours of off-duty time immediately after the worked overtime.

(g) This section is intended as a remedial measure to protect the public health and the quality and safety of patient care and shall not be construed to diminish or waive any rights of the nurse under other laws, regulations or collective bargaining agreements. The refusal of a nurse to accept work in excess of the limitations set forth in this section shall not be grounds for discrimination, dismissal, discharge or any other employment decision.

(h) Nothing in this section shall be construed to limit, alter or modify the terms, conditions or provisions of a collective bargaining agreement entered into by a hospital and a labor organization.