

Massachusetts Nurses Association:

A Quick Guide to Mandatory Overtime (MOT) Law for Nurses in Massachusetts

Massachusetts law forbids acute care hospitals from requiring a nurse to work beyond his/her scheduled shift, except in the case of a declared emergency. The law, MGL c 111, s. 226, "A Law to Ban the Dangerous Practice of Mandatory Overtime" went into effect November 5, 2012.

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111/Section226>

The Massachusetts Health Policy Commission (HPC) is charged with overseeing the mandatory overtime law. It has issued Guidelines that make it clear that the lack of staff or failure to plan cannot be used as justification for mandatory overtime. See: <http://www.mass.gov/anf/docs/hpc/regs-and-notices/hpc-mno-guidelines.pdf>

Highlights of the law include:

- A prohibition on mandatory overtime, defined as "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 given 24 hour period."
- A prohibition on nurses from working 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."
- The HPC's definition of "emergency situation" is at: <http://www.massnurses.org/news-and-events/p/openItem/8420>. A hospital emergency may include an ongoing medical or surgical procedure in which a nurse is actively engaged and where his/her presence is necessary to ensure the safety of the patients.
- The law prohibits MOT being used as an alternative to providing appropriate staffing for the level of patient care required. *Therefore, holes in the schedule, a high census, a sick call, vacation, personal and holiday leaves or leaves of absence by staff cannot be construed as an emergency, per the HPC Guidelines, as they are the direct result of the hospital's failure to provide appropriate staff.*
- *Hospitals must show good faith effort to avoid MOT through such things as 1) maintaining a float pool; 2) posting work schedules with minimum staffing gaps at least 4 weeks in advance; 3) taking action to fill vacancies BEFORE such shifts occur; 4) establishing an on-call list; 5) convening daily pre shift huddles to determine staffing requirements; 6) ensuring their disaster plan provides for staffing during an emergency, as well as seeking the use of off-duty, per diem and part-time nurses.*
- The law requires that hospitals report all instances of mandatory overtime to the Massachusetts Department of Public Health and that these reports be made available to the public.

Advice from MNA to all nurses who are being coerced into working beyond their scheduled shift: **Ask if you are being mandated.**

- If the answer is no, you are not compelled to work.
- If the answer is yes, you are being mandated, complete an MOT form, at <http://www.massnurses.org/files/file/Nursing-Resources/MOT-Reporting-Form%20Survey-02.pdf> or print the PDF and fax to 781-821-4445.
- Be aware that if you volunteer, or agree to work without confirming that you are being mandated, that is not a "mandated" occurrence that is reportable to MDPH.

MNA periodically obtains from MDPH the MOT Reports for all Massachusetts hospitals for review.

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