

New Legislation on Overtime Presents Troubling Questions

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Presenting some troubling scenarios for nursing supervisors, the state's "Safe Hospital Staffing Act" took effect earlier this month. Among other things, the new law prohibits hospitals from requiring nurses to work mandatory overtime. This applies to both registered nurses and licensed vocational nurses and, although the concept seems simple, the law may prove confusing and costly in practice.

Opinions differ regarding its impact. Despite initially opposing it in favor of more Draconian proposals, the California Nurses Association's National Nurses Organizing Committee praised the new legislation. Regardless of how the Act is viewed, managers charged with implementing it need to be well prepared.

On its face, the statute forbids mandatory overtime. It provides some exceptions, however, such as in the case of disasters, emergencies that could not prudently be anticipated, or when a nurse is actively engaged in an ongoing medical procedure that demands her continued presence. It does not prevent nurses from volunteering for overtime. Like so many aspects of the health care system, however, the devil lies in the details. For example, disputes are sure to pop up over whether a nurse did indeed "volunteer" for overtime. This is especially true when — as is often the case — decisions must be made quickly.

In most hospitals, where it is not unusual for workloads to change quickly and dramatically, it is vital to respond when patient needs change. To meet those needs, hospital supervisors must prepare now to avoid violating the Act's new requirements. Even well-intentioned violations can result in awards of at least \$5,000, court costs, attorneys' fees and even exemplary damages. The Act includes a number of other significant requirements that have garnered more attention in some circles. The prohibition on mandatory overtime, however, includes some potentially costly traps for those caught unprepared.

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