

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE B. LICENSING OF HEALTH FACILITIES

CHAPTER 258. MANDATORY OVERTIME FOR NURSES PROHIBITED

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [2187](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 258.001. DEFINITIONS. In this chapter:

(1) "Hospital" means:

(A) a general hospital or special hospital, as those terms are defined by Section [241.003](#), including a hospital maintained or operated by this state; or

(B) a mental hospital licensed under Chapter [577](#).

(2) "Nurse" means a registered nurse or vocational nurse licensed under Chapter [301](#), Occupations Code.

(3) "On-call time" means time spent by a nurse who is not working but who is compensated for availability.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](#)), Sec. 1, eff. September 1, 2009.

Sec. 258.002. MANDATORY OVERTIME. For purposes of this chapter, "mandatory overtime" means a requirement that a nurse work hours or days that are in addition to the hours or days scheduled, regardless of the length of a scheduled shift or the number of scheduled shifts each week. In determining whether work is mandatory overtime, prescheduled on-call time or time immediately before or after a scheduled shift necessary to document or communicate patient status to ensure patient safety is not included.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](#)), Sec. 1, eff. September 1, 2009.

Sec. 258.003. PROHIBITION OF MANDATORY OVERTIME. (a) A hospital may not require a nurse to work mandatory overtime, and a nurse may refuse to work mandatory overtime.

(b) This section does not prohibit a nurse from volunteering to work overtime.

(c) A hospital may not use on-call time as a substitute for mandatory overtime.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. 476), Sec. 1, eff. September 1, 2009.

Sec. 258.004. EXCEPTIONS. (a) Section 258.003 does not apply if:

(1) a health care disaster, such as a natural or other type of disaster that increases the need for health care personnel, unexpectedly affects the county in which the nurse is employed or affects a contiguous county;

(2) a federal, state, or county declaration of emergency is in effect in the county in which the nurse is employed or is in effect in a contiguous county;

(3) there is an emergency or unforeseen event of a kind that:

(A) does not regularly occur;

(B) increases the need for health care personnel at the hospital to provide safe patient care; and

(C) could not prudently be anticipated by the hospital; or

(4) the nurse is actively engaged in an ongoing medical or surgical procedure and the continued presence of the nurse through the completion of the procedure is necessary to ensure the health and safety of the patient.

(b) If a hospital determines that an exception exists under Subsection (a)(3), the hospital shall, to the extent possible, make a good faith effort to meet the staffing need through voluntary overtime, including calling per diems and agency nurses, assigning floats, or requesting an additional day of work from off-duty employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. 476), Sec. 1, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending

publication of the current statutes, see H.B. [2187](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 258.005. RETALIATION PROHIBITED. A hospital may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to work mandatory overtime.

Added by Acts 2009, 81st Leg., R.S., Ch. 742 (S.B. [476](#)), Sec. 1, eff. September 1, 2009.