

WEST VIRGINIA CODE: §21-5F-3

§21-5F-3. Hospital nursing overtime limitations and requirements.

(a) Except as provided in subsections (b), (c), (d), (e) and (f) of this section, a hospital is prohibited from mandating a nurse, directly or through coercion, to accept an assignment of overtime and is prohibited from taking action against a nurse solely on the grounds that the nurse refuses to accept an assignment of overtime at the facility if the nurse declines to work additional hours because doing so may, in the nurse's judgment, jeopardize patient or employee safety.

(b) Notwithstanding subsections (a) and (g) of this section, a nurse may be scheduled for duty or mandated to continue on duty in overtime status in an unforeseen emergent situation that jeopardizes patient safety.

(c) Subsections (a) and (g) of this section do not apply when a nurse may be required to fulfill prescheduled on-call time, but nothing in this article shall be construed to permit an employer to use on-call time as a substitute for mandatory overtime.

(d) Notwithstanding subsections (a) and (g) of this section, a nurse may be required to work overtime to complete a single patient care procedure already in progress, but nothing in this article shall be construed to permit an employer to use a staffing pattern as a means to require a nurse to complete a procedure as a substitute for mandatory overtime.

(e) Subsection (a) of this section does not apply when a collective bargaining agreement is in place between nurses and the hospital which is intended to substitute for the provisions of this article by incorporating a procedure for the hospital to require overtime.

(f) Subsection (a) of this section does not apply to voluntary overtime.

(g) In the interest of patient safety, any nurse who works twelve or more consecutive hours, as permitted by this section, shall be allowed at least eight consecutive hours of off-duty time immediately following the completion of the shift. Except as provided in subsections (b), (c) and (d) of this section, no nurse shall work more than sixteen hours in a twenty-four hour period. The nurse is responsible for informing the employer hospital of other employment experience during the twenty-four hour period in question if this provision is to be invoked. To the extent that an on-call nurse has actually worked sixteen hours in a hospital, efforts shall be made by the hospital to find a replacement nurse to work.

Each hospital shall designate an anonymous process for patients and nurses to make staffing complaints related to patient safety.

(h) Each hospital shall post, in one or more conspicuous place or places where notices to employee nurses are customarily posted, a notice in a form approved by the commissioner

setting forth a nurse's rights under this article.

WV Legislature