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# OHA Nurse Staffing Webinar

## Voluntary vs Mandatory Overtime

### October 7, 2022

Health Care Regulation & Quality Improvement

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# OHA Nurse Staffing Webinar

## Voluntary vs. Mandatory Overtime

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### Agenda

- Work Limits
- Allowed Overtime
- Calculation of Hours Worked
- Overtime Documentation
- Nurse Staffing Myths Exposed
- Q & A
- Upcoming Webinars
- Nurse Staffing Resources

# Work Limits

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- A hospital may not require a nursing staff member to work:
  - Beyond the agreed-upon and prearranged shift;
  - More than 48 hours in any hospital-defined work week;
  - During the 10-hour period immediately following the 12<sup>th</sup> hour worked; or
  - During the 10-hour period immediately following any agreed-upon and prearranged shift where the nurse worked more than 12 hours in a 24-hour period
- If the hospital requires additional work time as a condition of employment, it is mandatory overtime
- Described in Oregon Revised Statute 441.166 and Oregon Administrative Rule 333-510-0130

# Allowed Overtime

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- The hospital may require up to an additional hour of work if:
  - A staff vacancy for the next shift becomes known at the end of the current shift; or
  - There is a potential harm to an assigned patient if the nursing staff member leaves the assignment or transfers care to another nursing staff member

Described in Oregon Revised Statute 441.166(4) and Oregon Administrative Rule 333-510-0130(7)

- Nursing staff members are allowed to volunteer for overtime

# Calculation of Hours Worked

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The following time must be counted as hours worked:

- Time in required meetings
- Time receiving education or training
- Time on call or on standby if the nurse is required to be at the hospital (If the nurse is not required to be at the hospital while on call/standby, that time is not included as hours worked)
- If on the Hospital Nurse Staffing Committee: Time in Hospital Nurse Staffing Committee meetings

# Overtime Documentation

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## All overtime must be documented

- Document voluntary overtime
- Document mandatory overtime

# Nurse Staffing Myths Exposed

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## Myth

If the hospital never requires mandatory overtime, it doesn't need a mandatory overtime policy.

## Fact

All hospitals are required to have a mandatory overtime policy that ensures mandatory overtime, when required, is documented in writing and that mandatory overtime policies and procedures are clearly written, provided to all new nursing staff, and readily available to all nursing staff.

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# Nurse Staffing Myths Exposed

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## Myth

If the hospital never requires mandatory overtime, it isn't required to document whether overtime is mandatory or voluntary – it's all voluntary

## Fact

The hospital is required to document whether any overtime is voluntary or mandatory. The process should allow nursing staff members to specify whether the time was mandatory or voluntary.

Charting after your shift is considered voluntary overtime, not mandatory

If the hospital requires you to stay after the end of your prearranged and agreed-upon shift to complete work responsibilities (including charting or handoff), it may be mandatory overtime



# Nurse Staffing Myths Exposed

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## Myth

OHA will not enforce overtime that is only 15 minutes beyond the prearranged and agreed-upon shift.

As long as overtime is related to a staff vacancy that became known at the end of the prior shift or a potential harm to the patient if the nurse left their assignment, the hospital won't be cited for MOT.

## Fact

In general, OHA will not enforce violations that are 15 minutes or less. However, OHA finds a pattern of repeatedly required work that extends 15 minutes or less beyond the prearranged and agreed-upon shift, it may cite for MOT.

If OHA finds a pattern of repeatedly required additional work of up to an hour, even for acceptable reasons, it may cite for MOT.

# Nurse Staffing Myths Exposed

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## Myth

Working more than 12-hours due to call shift is MOT.

## Fact

Hospitals can require nurses to work call shifts. These call shifts are MOT or VOT. Call shifts chosen by the Nursing Staff Member are treated as VOT. Call shifts assigned by the hospital may be MOT; if Nursing Staff Members can trade or refuse these shifts, the call is more likely to be VOT.

As long as the nurse is safe, they are expected to work the call shift they accepted.

# OHA 2022 Nurse Staffing Webinar Series

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Fridays - 10:00 AM – 11:00 AM on Zoom

- ✓ **September 16** – Overview
- ✓ **September 23** – Nurse staffing plan requirements
- ✓ **September 30** – Meal and Rest break requirements (nurse staffing plan and timekeeping requirements)
- ✓ **October 7** – Voluntary vs. Mandatory overtime (including recordkeeping requirements)
- **October 14** – Nurse staffing during an emergency
- **October 21** – OHA nurse staffing complaint process
- **October 28** – Nurse staffing committee requirements

# Q & A

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Is waiting to give report to an oncoming nurse considered mandatory or voluntary overtime?

Is there a cap on required OT hours?

**The questions and answers are provided for general information only and may not be relied upon for purposes of regulatory compliance. The questions and answers are not legal advice and are not intended to be legally binding on the Oregon Health Authority when conducting a survey or complaint investigation.**

Is it mandatory overtime if in progress surgical cases go past staff scheduled shifts with no staff replacements?

What is the maximum hours a nursing staff member can work in a week?

What is the maximum number of mandatory overtime incidents that is acceptable in a pay period?

# Nurse Staffing Resources:

**Website:** [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)

- Nurse Staffing Interpretive Guidance (Overtime section)
- Sample Nurse Staffing Survey Tool Kit (Mandatory Overtime Review Tool)
- Nurse Staffing Reports and approved Plans of Correction

# Nurse Staffing Resources:

**Website:** [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)

**Email:** [mailbox.nursestaffing@odhsoha.oregon.gov](mailto:mailbox.nursestaffing@odhsoha.oregon.gov)

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## **Additional Resources:**

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