

**NURSING ADMINISTRATIVE MANUAL**

<b>MANUAL CODE: M-4</b>	
<b>SUBJECT: MANDATORY OVERTIME PURSUANT TO LABOR LAW SECTION 167</b>	
<b>DATE ISSUED: 2/97</b>	<b>DATE REVISED: 11/09</b>
<b>SUPERSEDES: 2/06</b>	<b>DATE REVIEWED: 5/21</b>
<b>CROSS REFERENCE:</b>	

**PURPOSE:**

To ensure that an acceptable staffing of nurses is maintained. This policy applies to registered professional nurses and licensed practical nurses, regardless of whether employed on a full-time, part-time, or per diem basis. Nurses engaged to perform services at MMC, whether through staffing agencies or on an independent contractor basis, are also covered.

**POLICY:**

- 1 Except in certain situations as provided in this Policy, nurses will not be required to work mandatory overtime.
  
- 2 For purposes of this Policy, mandatory overtime is defined as hours worked over and above the nurse’s regularly scheduled work hours. Regularly scheduled work hours is defined as those hours a nurse has agreed to work and is regularly scheduled to work, including:
  - prescheduled on-call time;
  - time spent for the purpose of communicating shift reports regarding patient status.

**Exceptions to Mandatory Overtime Prohibition**

1. To ensure an acceptable level of nursing care on a given unit, mandatory overtime may be invoked in the following situations:
  - A. Health Care Disasters** expectedly affecting the county in which the nurse is employed (or bordering county) and increase the need for, or require the maintenance of existing, on-duty, health care personnel so as to provide adequate health care coverage.
    - The existence of health care disasters is determined by MMC and includes, but is not limited to: fires, auto accidents, wide spread outbreaks of an illness requiring hospitalization for many individuals in the community served by MMC, or other serious events that increase the level of nursing care needed.
  
  - B. Federal, State or County Declaration of Emergencies** in effect in the county in which the nurse is employed (or a bordering county).

**C. Patient Care Emergencies**, which are unforeseen and could not be prudently planned for, and, as determined by RN Leadership, require the continued presence of the nurse to provide safe patient care.

- Before invoking this exception, a good faith effort will be made to have overtime covered on a voluntary basis or pursuant to its Nurse Coverage Plan. Such attempts at coverage will be documented.
- typical levels of absenteeism and approved time off for vacations, holidays, sick leave and personal leave do not establish a patient care emergency, unless the use of the Nurse Coverage Plan has failed to produce staffing to meet the particular patient care emergency.

**D. Ongoing Medical or Surgical Procedure** in which the nurse is actively engaged and whose continued presence through the completion of the procedure is needed to ensure the health and safety of the patient. The determination of the need for the nurse will be made by the nurse's supervisor or nurse manager supervising the nurse.

- To the extent possible, attempts will be made to obtain voluntary overtime before requiring mandatory overtime under this exception.

2. A nurse who is required to work mandatory overtime will be told the reasons why he/she is required to stay. If requested, an explanation will be provided in writing by the nurse manager.
3. A nurse may request 10 hours off between shifts.
4. Nothing contained in this Policy prohibits a nurse from voluntarily working overtime.
5. Every effort is made not to assign a day off in lieu of pay when it will result in a corresponding drop of staffing below requirements on the assigned day. (The following shift off is considered a schedule change, not compensatory time).
6. Unless mandatory overtime is required due to an ongoing medical or surgical procedure, NYSNA RNs may postpone mandatory overtime twice per calendar year. The next nurse due to work mandatory overtime then must stay and the nurse who postpones stays at the top of the list. If the nurse at the top of the list is the only one qualified, he/she cannot postpone her turn.
7. Disciplinary action may be incurred for a RN's repeated refusal to work mandatory overtime after the second postponement.
8. When mandatory overtime is required, the situation is evaluated every two hours by the ANM/ADM in charge to determine the continuing need for the overtime.

9. This Policy complies with applicable provisions of the Collective Bargaining Agreement and the New York State Labor Law.

### **NURSE COVERAGE PLAN**

The purpose of the Nurse Coverage Plan (“Plan”) is to identify and describe the Medical Center’s alternative methods of staffing nurses to avoid mandatory overtime in the event of a patient care emergency. Except under limited circumstances, before mandating overtime, the Medical Center, in accordance with this Plan, will take steps to obtain adequate staffing to provide safe patient care.

In examining the Medical Center’s current nursing coverage throughout the various departments at the Medical Center, we have identified the following circumstances where the need for overtime has arisen: (a) unforeseeable number of unplanned absences, which exceed typical and expected patterns of staff absenteeism, whether due to illness, leave, bereavement, and other similar absences, (b) when medical procedures unexpectedly fall behind schedule, whether due to a delayed start time (“late start”), procedures running longer than expected, emergencies, or additional cases (“add ons”) added to the schedule, and (c) a nurse’s waiting time with a patient, whether because the patient’s room is not yet available, a transporter is unavailable to escort the patient to another location, or any other reason requiring a nurse to remain with the patient.

In managing work flow and staffing needs, managers need to consider these circumstances leading to overtime, and consider solutions to avoid such situations. To the extent the circumstances leading to overtime situations identified above cannot be avoided, the Medical Center will, to the extent possible, utilize the Plan to fulfill its staffing needs and avoid mandating overtime.

Except in limited situations as is permitted and or required by law, before mandating overtime, pursuant to the Plan, Montefiore will first seek to provide alternative staffing coverage by contacting:

### **NYSNA:**

#### **Registered Nurses:**

- (a) Part-time employees or staffing agencies (for planned long-term absences).
- (b) Per diem nurses.
- (c) Voluntary nurse overtime. Those on vacation should be contacted only if they had previously indicated they desired to be called.
- (d) Staffing agencies (for unplanned, short leaves).

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**Registered Nurses:**

- (a) Voluntary nurse overtime. Those on vacation should be contacted only if they had previously indicated they desired to be called.
- (b) Per diem nurses.
- (c) Floating nurses.
- (d) Staffing agencies (for unplanned, short leaves).

**Licenses Practical Nurses:**

Voluntary nurse overtime.

- If no LPN is willing to accept voluntary overtime, the LPN who has the least classification seniority on duty and who is fully oriented to the job will be required to work mandatory overtime, as is permitted by law and the collective bargaining agreement. This is done on an equitable rotation basis among all staff on the unit. A rotation logbook may be maintained on the unit, if this occurs with any frequency.

Should the Medical Center fail to produce staffing after utilizing the Plan, only then will the Medical Center mandate overtime in accordance with policy, procedure and the collective bargaining agreement.

The Medical Center's attempts to avoid the use of mandatory overtime and to seek alternative staffing through the methods identified above will be documented.

**Reviewed by:**

Nursing Cabinet Members