



From the  
Nurse Alliance of Pennsylvania, SEIU

# A Guide to Act 102

Ending Mandatory Overtime  
for Nurses and Direct Patient Caregivers



**SEIU**Healthcare<sup>®</sup>  
United for Quality Care

## **How Nurses and Other Caregivers Won a Ban on Mandatory Overtime**

Seven years ago, we started to work together on the growing problem of mandatory overtime in our facilities. It was an issue that affected not just our patients, but healthcare professionals across our state.

For years, nurses and other direct caregivers spread the word about the need to ban mandatory overtime. We called our legislators, organized meetings in our facilities, wrote letters to the editor, and came out for news conferences and to directly lobby our representatives and senators in Harrisburg.

After seven years, we won. The legislature passed and Governor Rendell signed Act 102, banning mandatory overtime for all direct patient caregivers. Nurses, through the SEIU Nurse Alliance of Pennsylvania, proved that not only are we a voice for our patients, we also have the power to improve our profession and the care we provide every day.

*For a full copy of the new legislation go to:  
[www.nursealliancepa.org](http://www.nursealliancepa.org).*

## What you need to know about the ban on mandatory overtime (Act 102) .

### *What it Does:*

Act 102 OUTLAWs discipline or discrimination against a caregiver for refusing to work beyond an agreed to, scheduled work shift, except in narrowly-defined unforeseeable circumstances. (see page 4 for exceptions.)

The Act explicitly says that mandatory overtime can **ONLY** be used as a **LAST RESORT** after the employer has exhausted all reasonable alternatives. The Act specifically outlaws mandatory overtime as a normal staffing practice.

### *Who is Covered?*

The Act applies to **ALL** direct patient caregivers, including nurses, technicians, technologists, certified nursing assistants, and phlebotomists.

The Act applies to every type of medical care setting including acute-care, rehabilitation, and psychiatric hospitals, nursing homes, ambulatory surgical facilities and state health facilities.

### *Your Rights:*

Your employer cannot require you to work beyond your regular shift and cannot discipline or discriminate against you for refusing to work overtime in accordance with the law.

Your employer cannot use on-call time as a substitute for mandatory overtime or as a means of circumventing the intent of the legislation.

A caregiver who works more than 12 consecutive hours per workday is entitled to a minimum of ten consecutive hours of off-duty time immediately after the worked overtime.

Mandatory overtime cannot be used to deal with vacancies that are a result of short staffing.

## Exceptions

*The narrowly defined exceptions as written into Act 102 are:*

- An unforeseeable declared national, state, or municipal emergency.
- A highly unusual event which is unpredictable or unavoidable and which substantially affects the provision of health care services, including:
  - i. An act of terrorism
  - ii. A natural disaster
  - iii. A widespread disease outbreak
- Unexpected absences, discovered at or before the start of a scheduled shift, which could not be prudently planned for by an employer, and which would significantly affect patient safety.

*This does not include vacancies that arise as a result of chronic short staffing.*

### **Effective Date:**

*The ban on mandatory overtime goes into effect  
July 1, 2009.*

*“Pennsylvania’s mandatory overtime ban is one of the strongest and most comprehensive in the entire country.”*

*-Kathy Magaro, RN, MPA*

## Preventing Mandatory Overtime

- 1) Educate your manager and co-workers. Make sure your employer understands their obligations and that it is now *illegal* to mandate employees except in rare emergencies. Routine call-offs, spikes in census and other customary occurrences are not valid exceptions under the new law.
- 2) Be proactive. Look ahead in the schedule. Start to raise concerns with management early so you are not in a position of being faced with a crisis.
- 3) In the event of an extraordinary emergency that might result in mandation by management, begin investigating the actions that have been taken.
  - i. Has the extra work list been utilized? How about the extra work list on sister units? Have nurses on sister units been asked to float?
  - ii. Have all Per Diem nurses been called? Ask for a list of names or the log of who has been called.
  - iii. Have agency nurses been called? Transferred from another unit?
  - iv. If practice in your facility permits, has management staff taken an assignment?
  - v. Can a staff nurse *voluntarily* stay a few hours over and/or someone else *voluntarily* come in a few hours earlier?

## What to do if Management has Violated the Act

If you have a union, go to your union delegate or steward and file a grievance. Having a union and a union contract allows nurses and other caregivers to handle disputes like MOT directly.

If you are not working under union contract, contact the Pennsylvania Department of Labor Industry regarding how to file a complaint: 1-800-932-0665.

Employers who violate Act 102 can face hefty fines for each violation.

## **The Union Advantage: Protecting Patients, Honoring Caregivers**

Passing a ban on mandatory overtime was not easy. Nurses and other direct caregivers worked for over seven years to lobby the state legislature to pass a bill to protect patients.

But even before this law was passed, caregivers at union hospitals and nursing homes had banned mandatory overtime by negotiating language in their union contracts prohibiting mandation.

By working together as patient advocates, caregivers at union facilities have other extra protections against unsafe practices:

- Minimum nurse-to-patient staffing ratios that are adjusted for acuity and a voice in other patient care provisions in their union contract.
- A mechanism to handle workplace grievances and protect caregivers who speak out against unsafe practices who are unfairly or unlawfully disciplined and who may be pressured to work overtime.
- A voice for nurses and other caregivers to improve care and add further protections for healthcare workers and our patients.
- Effective public lobbying through SEIU and the SEIU Nurse Alliance of Pennsylvania.
- A growing network of support among SEIU union caregivers.

*The SEIU Nurse Alliance of Pennsylvania is THE leading voice for professional nurses throughout the state.*

*If you do not yet have a union where you work and would like more information, contact SEIU Healthcare Pennsylvania at 1-800-252-3894 on weekdays from 9:00 to 5:00 pm or visit us on the web at [www.seiuhealthcarepa.org](http://www.seiuhealthcarepa.org).*

**Banning Mandatory Overtime is the First Step.  
Help Take the Next Step toward Safer Patient Care.**

*Sign up online at [www.nursealliancepa.org](http://www.nursealliancepa.org) to get information on ways you can join together with other health caregivers to pass:*

### *Safe Minimum RN-to-Patient Ratios in Hospitals:*

Understaffing is a difficult and complex problem that directly affects the delivery of quality patient care in our hospitals. This is especially true today, where hospitals, increasingly concerned with profits and financial considerations, are requiring nurses to care for too many highly acute patients and driving dedicated and passionate healthcare workers out of the industry. SEIU Nurse Alliance of Pennsylvania members are making sure our voice is heard, working to pass laws and setting safe nurse-to-patient ratios adjusted for acuity.

### *Quality Affordable Healthcare for All:*

American workers are struggling with the rising cost of everything -- from food to fuel to housing to health care. They know that skyrocketing health costs are shrinking their paychecks, and if they lose their jobs they lose their health care.

The country has shown it is ready for real health care reform. Why wait? Already, too many Americans fear they are just one health care crisis from financial ruin. For this and many reasons, voters all across the country sent a clear mandate to lift up ordinary families rather than ignore them, to make the American Dream affordable again.

*Go to: [www.seiuhealthcarepa.org](http://www.seiuhealthcarepa.org)*

**T**he Nurse Alliance of Pennsylvania is an affiliate of SEIU Healthcare Pennsylvania, uniting over 10,000 professional nurses across Pennsylvania in our commitment to provide the safest and highest quality of care for our patients and the public we serve.

*“The Nurse Alliance was critical in passing the ban on mandatory overtime. We will continue to work with nurses to protect patient care and improve the nursing profession.” - Deb Bonn, RN, Director of SEIU Nurse Alliance of Pennsylvania*

*For more information visit: [www.NurseAlliancePA.org](http://www.NurseAlliancePA.org).*



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**S**EIU Healthcare Pennsylvania is the Commonwealth's largest and fastest-growing union of nurses and other health care workers, representing over 20,000 members in hospitals, nursing homes, home care, and state health facilities. It is part of SEIU, which represents over 2 million workers.

*For more information go to: [www.seiuhealthcarepa.org](http://www.seiuhealthcarepa.org).*



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