

August 8, 2005

Governor Blagojevich Signs Law Eliminating Mandated Overtime for Nurses

Continuing with his promise to support labor's agenda, Illinois Governor Rod Blagojevich signed into law amendments to the Hospital Licensing Act on July 28, 2005. The amendments prohibit mandated overtime for nurses in Illinois. Under the law, hospitals now face an additional challenge when it comes to scheduling nurses.

The law forbids forcing nurses to work after the end of the agreed-to, predetermined work shift. When a nurse's shift extends to twelve consecutive hours, the hospital must allow the nurse eight consecutive hours off. However, time spent on-call for work in specialized units (such as surgical nursing) do not count towards the overtime limit. A hospital may not take any disciplinary action against a nurse for refusing to work past the end of his or her scheduled shift.

The law provides an exception in cases of "unforeseen emergent circumstances." Hospitals may require overtime of nurses when there is any declared national, state, or municipal disaster or other catastrophic event, or when the hospital implements its disaster plan. Further, hospitals may require nurses to continue working when patient care requires specialized nursing skills through the completion of a procedure. Even in these situations, however, mandated overtime can only last for four hours.

The law makes clear, however, that an "unforeseen emergent circumstance" does not include situations in which the hospital fails to have enough nursing staff to meet the usual and reasonably predictable nursing needs of its patients. How absenteeism will be treated in this context is unclear. The law's language suggests that if several nurses are absent, a hospital **may not** be able to require on-duty nurses to work past the end of their scheduled shift. The Illinois Department of Public Health may issue regulations clarifying what a hospital's duties and responsibilities are in such a circumstance.

In light of the law, Illinois hospitals will be forced to rely upon voluntary overtime from their nurses to satisfy their staffing requirements. No nurse can be forced to work beyond a twelve hour day. The nurses' unions hope that the law will result in the hiring of more nurses, but the problem is that many hospitals are currently facing a shortage of nurses. This law mayacerbate the problem. Given these circumstances, hospitals will need to be creative to satisfy their staffing needs.

For more information please contact Jeffrey Kauffman, at jkauffman@seyfarth.com or 312-269-8981, or Keith Reed, at kreed@seyfarth.com or 312-269-8838.