

July 20, 2005

EMPLOYMENT ALERT

HB 2800: NEW RESPONSIBILITIES FOR HOSPITALS

On January 1, 2006, HB 2800 will impose significant new rules on hospitals that employ registered nurses, licensed practical nurses and certified nursing assistants in Oregon. HB 2800 restricts the amount of overtime these nursing professionals can be required to work, and also establishes new rules regarding the composition of a hospital's staffing plan committee and the contents of the staffing plan. This Alert provides an overview of some the changes imposed by HB 2800.

RESTRICTIONS ON OVERTIME

Currently, registered nurses cannot be required to work more than 2 hours beyond a regularly scheduled shift nor more than 16 hours in any 24 hour period. As of January 1, 2006, however, HB 2800 mandates that no hospital may require a registered nurse, licensed practical nurse or certified nursing assistant to work:

- (a) beyond an agreed upon shift
- (b) more than 48 hours in any hospital-defined work week, or
- (c) more than 12 consecutive hours in a 24 hour period. A hospital may require one additional hour of work beyond the 12-hours if certain criteria are met

In addition, HB 2800 makes clear that time spent attending required meetings or trainings by registered nurses, licensed practical nurses or certified nursing assistants must be counted toward the total hours worked for the above daily and weekly limitations. Finally, these rules restrict the number of hours that a hospital can *require* a nurse professional to work; they do not impact a nurses' ability to volunteer for additional shifts or overtime.

Current law provides for exceptions to these restrictions in the case of a national or state emergency, emergency circumstances as defined by the Department of Health Services administrative rule, or if a hospital has made reasonable efforts to contact all of the qualified, on-call nursing staff and nursing staff services and is unable to obtain replacement staff in a timely manner. These exceptions will continue under the new law.

HOSPITAL STAFFING PLAN COMMITTEES

For the past few years, hospitals throughout Oregon have been required to adopt and implement hospital staffing plans that establish adequate staffing levels for safe patient care. Hospitals have been required to develop and monitor these plans utilizing a process that “ensures consideration or input” from direct care clinical staff. As of January 1, 2006, however, HB 2800 will require that, to the extent possible, hospitals establish an official *staffing plan committee* charged with developing, monitoring, evaluating and modifying the required staffing plan. This staffing plan committee must include an equal number of hospital nurse managers and direct care registered nurses. Furthermore, the committee must include at least one direct care registered nurse from each specialty or unit at the facility.

HB 2800 also establishes some standards for the contents of the staffing plan. For instance, the plan must be based upon an accurate description of individual and aggregate patient needs and requirements for nursing care, be consistent with “nationally recognized evidence-based standards and guidelines established by professional nursing organizations...”, and provide for periodic review.

Finally, HB 2800 also includes provisions regarding circulating nurses, imposing some restrictions on circulating nurses and also requiring that only registered nurses can serve as a circulating nurse.

These are not the only changes required by HB 2800, and the new rules regarding overtime and staffing plan committees are quite detailed. Because of the complexities of federal, state and contractual requirements, each hospital each hospital is encouraged to review the specific changes with its human resources and employment law experts. A copy of HB 2800 can be found at <http://www.leg.state.or.us/05reg/measpdf/hb2800.dir/hb2800.en.pdf>.

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