

S.277 - Matrix of state-by-state comparison of laws prohibiting mandatory overtime for nurses

State	Prohibition	Exceptions	Max. shift	Coverage	Whistle-blower Non-retaliation	Penalties
Alaska	<ul style="list-style-type: none"> * Judgment of nurse that OT would jeopardize patient safety * at least 10 consecutive hours off-duty following shift * can voluntarily work OT up to 14 hours w 10 hour break 	<ul style="list-style-type: none"> * ongoing surgical procedure; * unforeseen emergency situation; * unforeseen weather conditions; * a health care facility in a rural community that declares a temporary staffing emergency 	14 hours	EXCLUDES: <ul style="list-style-type: none"> * School nurses * medical flight nurses * psychiatric treatment center 	<ul style="list-style-type: none"> * Non retaliation provision * Anonymous process for complaints 	sliding scale from reprimand to \$25,000
California	<ul style="list-style-type: none"> * not specific to nurses * no more than 72 hours/week * double pay for hours in excess of 12 hours/workday 	<ul style="list-style-type: none"> * health care emergency = unpredictable or unavoidable occurrence or unscheduled intervals relating to healthcare delivery, requiring immediate action 	12 hours	<ul style="list-style-type: none"> * general exemptions from OT (executive, professional, administrative) 	Not included in wage order	\$50/e'ee for initial violation, \$100/e'ee for subsequent violation
Connecticut	<ul style="list-style-type: none"> * in excess of scheduled work shift, more than 12 hours in 24 hour period, or more than 48 hours in workweek * can voluntarily work OT 	<ul style="list-style-type: none"> * patient safety and no reasonable alternative (on going surgical procedure, critical care unit & waiting to be relieved by nurse coming on shift, public health emergency, institutional emergency, or behavioral health facility. * covered by a CBA that addresses mandatory OT 	12 hours	<ul style="list-style-type: none"> * coverage limited to RN, LPN and nurse's aide working in a hospital setting 	Not included in specific statute	Not included in specific statute
Illinois	<ul style="list-style-type: none"> * mandated OT shall not exceed 4 hours beyond predetermined work shift * must have at least 8 consecutive hours off duty after 12 consecutive hours on shift 	<ul style="list-style-type: none"> * allowed only in cases of "unforeseen emergent circumstances" & limited to 4 hours 	12 hours	<ul style="list-style-type: none"> * coverage limited to advanced practice nurse, RN, & LPN in hospital setting 	<ul style="list-style-type: none"> * Retaliation prohibited * Complaints to be filed with Dept of Public Health * Requires clear and convincing evidence of violation 	Not included in specific statute

State	Prohibition	Exceptions	Max. shift	Coverage	Whistle-blower Non-retaliation	Penalties
Maine	* a nurse cannot be disciplined for refusing to work more than 12 consecutive hours * must have at least 10 consecutive hours off duty following 12 hour shift	* a nurse may be disciplined for refusing to work mandatory OT in an unforeseen emergent circumstance	12 hours	“nurse” is not explicitly defined	Cannot be disciplined for refusal to work OT	Not included in specific statute
Maryland	* cannot mandate work beyond regularly scheduled (predetermined) work hours	* can be required to work OT if (1) unforeseeable emergency situation; (2) non-recurring and not due to lack of planning; (3) exhausted voluntary OT; (4) nurse has critical skills and expertise required for the work; (5) standard of care for patient (continuity of care through completion of case, treatment, or procedure); and (6) e'er has informed nurse of the basis for the OT. * can be required to work OT if a condition of employment included on-call rotation or nurse works in community-based care	not more than regular work hours	* applies to RN and LPN only	Not included in specific statute	Not included in specific statute
Massachusetts	* cannot work more than 16 hours in 24 hour period; must have at least 8 hours off duty after worked OT	* can require mandatory OT in “an emergency situation where the safety of the patient requires its use and there is no reasonable alternative” (provided employer has made a good faith effort to have OT covered on a voluntary basis first)	16 hours	* applies to nurses in hospital settings only	Cannot be disciplined for refusal to work OT	Not included in specific statute
Minnesota	* nurse can refuse to work excess hours if, in nurse's judgment, doing so would jeopardize patient safety * normal work period = 12 hours	* can require OT in an emergency. * Emergency defined as “a period when replacement staff are not able to report for duty for the next shift or increased patient need, because of unusual, unpredictable, or unforeseen circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact continuity of patient care”	12 hours	* applies to advanced practice RNs, RNs, & LPNs only & nurses employed by state incl.. residential care EXCL. nursing facility, intermed. care facility for develop. disabled, licensed boarding care facility, etc.	Cannot be disciplined for refusing to work additional consecutive hours in excess of normal work period	Not included in specific statute

State	Prohibition	Exceptions	Max. shift	Coverage	Whistle-blower Non-retaliation	Penalties
Missouri	<ul style="list-style-type: none"> * OT shall not be mandated unless there is an expected staffing shortage <u>after</u> reassigning on duty staff, seeking volunteers, contacting off duty staff willing to work extra time/per diem, etc., and using a temp agency (if permitted by CBA) * Nurses have option to have at least 10 consecutive hours off duty time if required to work more than 12 consecutive hours 	<p>"The prohibition of mandatory overtime does not apply to overtime work that occurs because of an unforeseeable emergency or when an ambulatory surgical center and a subsection of nurses commit, in writing, to a set, predetermined staffing schedule or prescheduled on-call time. An unforeseeable emergency is defined as a period of unusual, unpredictable or unforeseeable circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact patient care and which prevent replacement staff from reporting for duty."</p>	12 hours	<ul style="list-style-type: none"> * covers licensed nursing personnel nurses in ambulatory surgical centers 	<p>Cannot be disciplined for refusing to work additional consecutive hours in excess of normal work period if doing so, in the nurse's judgment, may jeopardize patient safety</p>	Not included in specific regulation
New Hampshire	<ul style="list-style-type: none"> * RN, LPN, & LNA shall not be disciplined for refusing to work more than 12 consecutive hours * Entitled to at least 8 consecutive hours off duty after working 12 hours 	<ul style="list-style-type: none"> * surgical nurse until surgery is complete * critical care nurse until relieved by next shift * home healthcare setting until relieved * public health emergency * covered by CBA that addresses mandatory OT * Special agreement exempting employer from prohibition between employer and employee is voluntary agreement and agreement is submitted to commissioner of labor 	12 hours	<ul style="list-style-type: none"> * covers RN, LPN, and LNA only 	<p>Cannot be disciplined for refusal to work OT</p>	Subject to civil penalty under RSA § 273:11-a for willful violation (up to \$2,500)
New Jersey	* prohibition against working in excess of 40 hours/week unless voluntary	<ul style="list-style-type: none"> * "Unforeseeable emergency circumstance" means an unpredictable or unavoidable occurrence of unscheduled intervals relating to health care delivery that requires immediate action * OT only as a last resort (not to fill vacancies from chronic staffing shortages) & e'er has exhausted all reasonable efforts to obtain staffing (unless declared emergency or other catastrophic event) 	40 hours/week	<ul style="list-style-type: none"> * covers employees of healthcare facilities involved in direct patient care * EXCLUDES physicians 	<ul style="list-style-type: none"> * Anti-retaliation provision for refusing to accept OT * Complaint process (in Admin Code) 	Sanctions provided by NJ Wage and Hour Law

State	Prohibition	Exceptions	Max. shift	Coverage	Whistle-blower Non-retaliation	Penalties
New York	<ul style="list-style-type: none"> * prohibition on requiring nurses to work beyond regularly scheduled hours * nurses can work OT voluntarily * employer must make good faith effort to avoid imposing mandatory OT 	<ul style="list-style-type: none"> * a health care disaster that increases the need for health care personnel * a federal, state or county declaration of emergency * An unforeseen emergency to provide safe patient care that couldn't be prudently planned for by the employer and does not occur regularly * Ongoing medical or surgical procedure & continued presence needed to ensure health & safety of patient 	not more than regular work hours	* covers RNs and LPNs who provide direct patient care	* can file complaint with enforcement officer, who will conduct investigation (in consultation with Dep't of Health)	* civil penalty up to \$1,000 for 1 st violation, \$2,000 for 2 nd (within 12 months), \$3,000 for 3 rd within 12 months
Oregon	<ul style="list-style-type: none"> * Must make reasonable effort to obtain nursing staff before requiring mandatory OT * Must have 10 consecutive hours off duty following 12th hour worked in 24 hour period 	<ul style="list-style-type: none"> * in the event of a national or state emergency requiring implementation of a facility disaster plan * "in emergency circumstances identified by the authority by rule" 	not more than regular work hours, 48 hours in workweek, or 12 hours in 24 hour period	* RNs, LPNs, certified nursing assistants and other hospital nursing staff	* complaints can be reported to hospital's nursing staff committee.	
Pennsylvania	<ul style="list-style-type: none"> *Cannot require employee to work in excess of predetermined hours. *Employees can voluntarily accept OT 	<ul style="list-style-type: none"> * in an "unforeseeable emergent circumstance" and assignment of additional hours is a last resort and employer has exhausted reasonable efforts to obtain other staffing * complete a patient care procedure already in progress 	10 consecutive hours off duty after working a 12 hour shift	* providing direct patient care or clinical care services in health care facility	* retaliation prohibited	*Admin fine of \$100-\$1,000 per violation
Rhode Island	<ul style="list-style-type: none"> *Cannot require employee to work in excess of predetermined work schedule *Voluntary OT permitted 	<ul style="list-style-type: none"> * "unforeseeable emergent circumstance" – OT is last resort and not used to fill vacancies from chronic short staffing and employer has exhausted reasonable efforts to obtain staffing * national, state or municipal emergency or disaster or other catastrophic event that substantially increases need for health care 	No more than 12 consecutive hours	*RN, LPN, certified nurse assistant		\$300 per violation (as determined by DOL)

State	Prohibition	Exceptions	Max. shift	Coverage	Whistle-blower Non-retaliation	Penalties
Texas	*Cannot require e'ee to work mandatory OT, cannot use on call-time as a substitute for mandatory OT *Voluntary OT permitted	*Healthcare disaster; national, state or county declaration of emergency; ongoing medical/surgical procedure *Good faith effort to meet staffing needs through other means		RN, vocational nurse	Retaliation prohibited; statutory complaint process	
Washington	*Mandatory OT prohibited *Voluntary OT permitted	**"unforeseeable emergent circumstance" *prescheduled on-call time (subject to limitations) *e'er has used reasonable efforts to obtain staffing (cannot use to fill vacancies due to chronic staff shortages) *to complete patient care procedure	12/24hrs 80 hrs/14 days 8 hours off after 12 hrs	Direct patient care or clinical services in a health care facility (LPNs and RNs)	Complaints investigated by DOL	\$1,000-\$5,000
West Virginia	*Cannot require e'ee to work in excess of predetermined work schedule * cannot use on call-time as a substitute for mandatory OT * Voluntary OT permitted	**"unforeseen emergent situation"	Not more than 16 hrs in 24 hour period 8 hours off after 12 hours	RNs, LPNs	Retaliation prohibited Each hospital shall have an anonymous process for reporting complaints related to patient safety	Enforced by DOL Reprimand up to \$5,000