

# WE ARE YOUR DOL



Labor Standards Division  
W. Harriman State Office Campus  
Albany, NY 12226  
[www.dol.ny.gov](http://www.dol.ny.gov)

## Nurse Mandatory Overtime Employer Requirements and Nurse Coverage Plan Standards Checklist

### A. Requirements

#### Health care employers:

- **Cannot mandate overtime hours for nurses**, except under certain circumstances. "Mandatory Overtime" means assigning work hours over and above a nurse's regularly scheduled hours (§ 177.2(f))
- **Must implement a Nurse Coverage Plan** (§ 177.4) to avoid the use of mandatory overtime. Use the Nurse Coverage Plan Standards Checklist, below, to help create an effective and complete Nurse Coverage Plan
- **Must document all actions to avoid mandatory overtime** to demonstrate compliance with Labor Law Section 167 and Part 177
- **Are required to notify the Department of Labor** and the Department of Health when using an exception to the limit on mandatory overtime (§167(3))
- **May be assessed a civil penalty** for any violation of Labor Law Section 167 and Part 177.
- **Are required to display a poster** containing information for employees on how to file a complaint with NYSDOL, if they believe there has been a violation of this law. The poster must be displayed in a place that can be easily seen and is accessible to employees.

For definitions and more information about the required Nurse Coverage Plan see Title 12 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, Part 177.

### B. Nurse Coverage Plan Minimum Standards Checklist:

1.  The facility has reviewed its typical patterns of staff absenteeism due to illness, leave, bereavement, and other similar factors.
2.  The facility has analyzed its typical levels (patient census) and types of patients served.
3.  The facility has established a system that identifies and describes alternative staffing options to ensure adequate staffing without mandating overtime. These options include but are not limited to:
  - Soliciting voluntary overtime from nurses on current shift and/or off duty nurses
  - Contracts with per diem nurses
  - Contracts with nurse registries or employment agencies
  - Arrangements for assignment of nursing floats
  - Requesting an additional day of work from off-duty employees
  - Other alternatives (list): \_\_\_\_\_

4.  The facility can provide documentation that proves for each occasion of mandated overtime there was either:
- A Health Care Disaster
  - A Government Declaration of Emergency
  - An ongoing medical or surgical procedure
  - A bona fide Patient Care Emergency occurred, the facility followed the plan and exhausted all alternative staffing methods to avoid mandating nurses