

Mandatory Overtime Limitations for Nurses

AS 18.20.400 - AS 18.20.499



1. What does overtime mean under the Mandatory Overtime Limitations for Nurses law?

“Overtime” in the context of this law means those hours a nurse works in excess of the predetermined and regularly scheduled hours that the nurse and the health care facility previously agreed upon.

Simply put, overtime is all hours that a nurse works outside his/her regular shift.

The term “overtime” in these statutes does not refer to the payment of overtime or the eligibility for the payment of overtime.

2. Who is covered under the Mandatory Overtime Limitations for Nurses law?

A licensed practical nurse or a registered nurse, that works in a qualifying medical facility, and works a predetermined and regularly scheduled shift and provides nursing services through direct patient care or clinical services is covered under this law. This includes a nurse-manager when delivering in-hospital patient care.

3. What facilities are covered by this law?

Any private, municipal, or state hospital; independent diagnostic testing facility; primary care outpatient facility; skilled nursing facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or Alaska Veterans' Home administered by the Department of Health and Social Services under [AS 47.55.010](#); correctional facility owned or administered by the state; private, municipal, or state facility employing one or more public health nurses; long-term care facility; psychiatric hospital; residential psychiatric treatment center, as defined in [AS 18.07.111](#) or [AS 47.32.900](#); secure residential psychiatric treatment center under [AS 47.12.990](#); juvenile detention facility; juvenile detention home, juvenile work camp, or treatment facility as defined in [AS 47.12.990](#).

4. What facilities are not covered under this law?

A health care facility operated by:

- The federal government,
- A tribal organization as defined in 25 U.S.C. 450

5. What hours have to be reported by the employer?

The health care facility must report all hours worked by the nurse that are in excess of his/her predetermined and regularly scheduled shift, regardless of whether those hours worked are voluntary, mandatory or whether they are paid at time and a half. Also, all hours that a nurse is placed in on-call status must be reported, regardless of how many hours he/she actually works. The hours are to be reported semiannually to the Alaska Department of Labor and Workforce Development, Wage and Hour Administration.

6. **Suppose I am a nurse who is contracted to work at a health care facility by a staffing agency. Who reports the overtime hours – the health care facility or the staffing agency?**

The health care facility is responsible for reporting these hours.

7. **If I work for more than one health care facility, are all my hours worked counted for both facilities under the Mandatory Overtime Limitations for Nurses law?**

This question is not easily answered. Are the facilities owned and operated by the same employer? If so, yes. If not, are the two employers coordinating your scheduled shifts or sharing control as your employers? If so, they may be considered a joint employer and your hours would be combined as though you worked for one employer. For clarification of a joint employer, you may contact the nearest Wage and Hour Administration and speak with an investigator.

8. **Suppose I am a nurse hired on a temporary basis. Does this law apply to me?**

Yes. This law makes no distinction between full time, part-time and temporary nurses.

9. **Can my employer require me to sign up for a certain amount of “on-call” time?**

Yes. Just the fact that the employer requires a nurse to sign up for on-call is not a violation of this law.

10. **What if part of my work schedule is to be on-call from midnight to 7:00 a.m. each week. Is this on-call time considered a predetermined and regularly scheduled shift?**

This is a tricky subject. On-call time, when a nurse is required to carry a cell phone or pager and report to work upon being called, is not considered time worked until the nurse is actually called to fulfill work tasks. However, in this example, a hospital would be prohibited from requiring a nurse to work beyond the regularly scheduled on-call shift ending time at 7:00 am, unless one or more of the exceptions listed in this nurse’s overtime law applies. See [AS 18.20.400\(c\)](#)

11. **When can a nurse decline to work an on-call shift?**

Upon being called, the law allows the nurse to refuse the fulfillment of on-call work that was agreed to in advance if, in the nurse’s judgment, doing so would create an unacceptable risk to the physical safety of the nurse, a patient or another employee of the health care facility. In this case, the nurse can decline it when they are called in to work, or if they are already working an on-call shift. They can notify the facility that it has or will become an unacceptable risk to continue working. If the nurse does not make a judgment that fulfilling this on-call time poses unacceptable safety risks, then that work can be required.

12. **Suppose I want to work overtime and voluntarily choose to work longer hours. Is this allowed under this law?**

One of the intents of this overtime law is to safeguard the efficiency, health and general well-being of nurses as well as the health and general well-being of the patients receiving the care from the nurses. A nurse can volunteer to work past his/her shift provided the nurse does not work more than 14 consecutive hours.

13. **Suppose I have been forced or coerced to work overtime by my employer. How do I file a formal complaint?**

You must submit your written complaint to the Department of Labor and Workforce Development, Wage and Hour Administration, within 30 days of the alleged violation.

The required complaint form can be accessed online at:

<http://www.labor.alaska.gov/lss/whhome.htm>.

14. If I have been forced or coerced to work overtime by my employer, but I do not want to file a formal complaint. What can I do to express my concern?

Your employer is required to offer an anonymous process by which a nurse (or patient) can make a complaint about staffing levels or patient safety that relate to this law.

15. Suppose I am a represented by a union. Do I have to file my formal complaint with them first?

No. See answer to question #12 or #13 for complaint information.

16. Suppose I am a nurse employed by the State of Alaska. Can I make a formal complaint?

Yes. See answer to question #12 or #13 for complaint information.

17. Is my employer permitted to retaliate against me for exercising my rights under this law?

No. A facility may not discharge, discipline, threaten, discriminate against, penalize or file a report with the Board of Nursing against a nurse for the good faith reporting of an alleged violation. The Wage and Hour Administration does not handle retaliation complaints. However, a nurse who has been retaliated against may consider hiring private legal counsel to pursue appropriate remedies.

18. Do facilities have to notify nurses of their rights under these statutes?

Yes. The facility is required to display printed statements describing employee rights and employer obligations in an accessible place. The Wage and Hour Administration will provide copies of this printed statement to facilities without cost. You can obtain a copy of AS 18.20.400 - AS 18.20.499 and a summary poster of the *Overtime Limitations for Nurses* law at: <http://www.labor.alaska.gov/lss/whhome.htm>.