

704 - 400 Taché Avenue
Winnipeg, Manitoba
R2H 3C3

Phone: 204.231.0188
Fax: 204.237.3927

E-mail:
info@stbonifacenurseslocal5.ca
www.stbonifacenurseslocal5.ca

Do's and Don'ts of Mandatory Overtime

The following information is provided to ensure that Local 5 members are aware of the issues surrounding an occurrence of mandatory overtime. We hope this document will help reduce any confusion and/or misunderstandings surrounding this issue.

The employer can only mandate overtime as a last resort. They must have exhausted all avenues prior to mandating overtime. For example:

- *voluntary overtime availability of qualified nurses (regardless of home unit and/or occupational classification)*
- *part-time nurses – additional shifts*
- *casuals*

Please note: In order for a nurse to be mandated, she/he must be in an overtime position as per article 1601 of the collective agreement.

*Karen Sadler, President
St. Boniface Nurses Local 5*

Do remember that imposing mandatory overtime is a management responsibility.

You can only be required to stay for mandatory overtime by the employer (manager). Managers are PTMs, program directors, supervisors and the designated “administrator on call” for the hospital.

A CRN or charge nurse cannot be required (nor should they agree) to assume the duties of an out-of-scope (not within the union) manager. The employer can direct a CRN or charge nurse to ask for volunteers for overtime, to prepare a list of nurses working that day, and/or to identify those nurses who previously had mandatory overtime, *but the employer cannot direct a CRN or charge nurse* (nor should a CRN or charge nurse agree) to force a co-worker to do mandatory overtime. A CRN or charge nurse who does this may find themselves in a situation where the union files a grievance saying that mandatory overtime should not have been imposed. In that case we would then in fact be saying that the CRN/charge nurse did something incorrect.

A nurse being denied the right to leave the facility should only take that direction from the employer.

Do understand the difference between when overtime is voluntary and when it is mandatory.

- If overtime is offered and you say “yes”... that is **voluntary**.
- If the manager (representative) pleads, “*please, please, please stay*” and you say “yes”... that is **voluntary**.
- If the manager (representative) says, “*one of you must stay*”...and one of you does...that is **voluntary**.

If you say “no” when overtime is offered and you clearly state that you are leaving at the end of your shift and the manager representative then tells you “**you must stay**”...that is **mandatory** overtime. Even if you are able to negotiate this down to a shorter period of time... it is still mandatory overtime.

(Continued on page 2)

Do ask questions and forward that information to the Local 5 office.

In all instances where mandatory overtime is worked, a Workload Staffing Report form (WSR) should be completed. Also fill out a *Notification to Union of Mandatory Overtime* form and fax it the Local 5 office (fax 204.237.3927).

If our opinion is that the employer did not exhaust all avenues, we may grieve that mandatory overtime was inappropriate.

Do communicate with the employer representative.

In the event the employer mandates a nurse to work overtime and she/he believes she/he is unable to work the overtime, it is essential that the nurse clearly state the reason she/he is unable to perform the overtime assignment. The most important factor affecting nurses with respect to being required to perform overtime is whether the work assigned is of such a critical nature that it could not be delayed. Reasons for refusing the overtime will vary according to factors such as:

- The nurse is near exhaustion and could injure herself/himself;
- The nurse believes her/his continued attendance would compromise patient care;
- Physical health of the nurse (duty to accommodate);
- Whether the nurse is, in some sense, involuntarily prevented from working (e.g. child care arrangements because of a lack of notice, medical appointments that cannot be changed);
- The availability of others to substitute for the nurse;
- The amount of overtime and regular hours worked by the nurse in the recent past;
- The expected duration of the overtime assignment (i.e. working 2 hours vs. 8 hours);
- The amount of notice given by the employer to the nurse prior to the commencement of the overtime shift (unreasonable inconvenience);
- Whether the mandatory overtime is in an area of the hospital which more regularly and usually demands overtime.

If a nurse elects to refuse to work overtime when the employer mandates her/him, she/he is at risk of being disciplined. In this situation the nurse should obey the employer's direction then advise the Local 5 office that you were mandated. We can then review the circumstances of the mandatory overtime with respect to possibly filing a grievance.

Do fight back against inadequate staffing.

There are tools to deal with inadequate staffing. Fill out WSR forms. Do not indicate that they are for documentation, rather request that your PTM schedule an emergency nursing staff meeting immediately to deal with them. Attend those meetings and ensure the minutes reflect that the manager was notified of the unsafe and unacceptable situation, or call your unit's representative on the WSR committee and request assistance to deal with your issue. If at the end of the nursing staff meeting (or meeting with your manager) you don't feel the issue is resolved or if you feel that the issue may happen again, immediately refer the situation to the Nursing Advisory Committee (NAC).

Any issue raised at the unit level that remains unresolved in the opinion of the nurse, can be referred to NAC. If you're not sure how to start this process, request in writing that your manager put WSR orientation on your nursing staff meetings and invite the WSR committee to present an orientation.