



Mandatory Overtime?

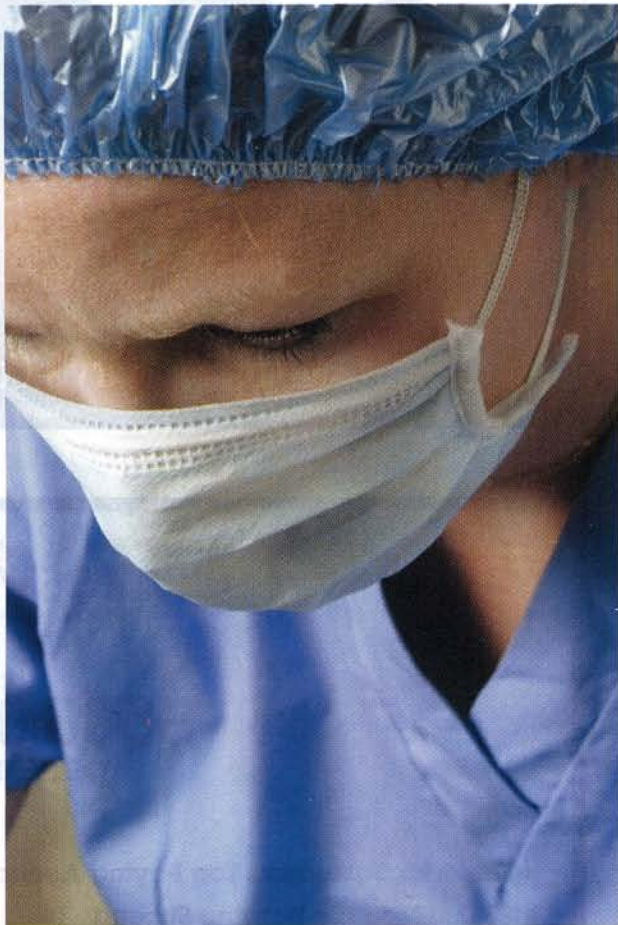
BY GENEVIÈVE M. CLAVREUL, RN, PHD

AT THE BEGINNING of my career I made a deal with my family: I would work 12-hour shifts for two weeks at a time, then take two weeks off. I promised my family that when I got my two weeks off, I'd be free to do whatever pleased us. A day trip to Callaway Gardens outside Atlanta, a road trip to see Grandma and Grandpa in Kansas or to visit Judge Edwards over in Louisiana—none of these were a problem. This arrangement suited us particularly well during the summer months. My children never complained about my long days at the hospital, and I grew to love

the benefits of working overtime. (The enjoyment of such a work arrangement must be contagious because my son pulls similar shifts when he is on duty. How does that saying go, "like mother, like son?") However, working overtime is not something every nurse wants to do. Many feel pressured to take extra shifts and give grudging consent. Sometimes nurses are made to feel that they don't have a choice. This process, if unchecked, can evolve into a serious staff morale and patient care issue. The question then becomes, is overtime really mandatory?



Halfway through my 12-hour shift, the charge nurse politely asked if I would consider working another 12 hours.



Nurses need to be aware of what the law allows. Even in an “at will employment” state such as California, there are laws that define overtime and what employers can and cannot demand of their employees. Folded into this are the hospital employment policies and union agreements (if you work at a union-represented hospital).

In California, when a non-exempt employee does work overtime, the law usually requires that they be appropriately compensated for their time. The most common compensation is through additional pay, and depending on how many hours are worked, a nurse may realize time and a half, double time, or even triple time pay (depending on state law and individual hospital policies).

Rather than extra pay, nurses who work overtime may opt to take additional time off, which is often referred to as

“compensatory time” or “comp time.” Comp time is a system to compensate for overtime hours by allowing time off that does not reduce the employee’s sick leave, vacation time, or other recognized time off.

Additional pay or comp time are appropriate when the nurse voluntarily accepts the overtime; however, they fail to compensate the nurse when he or she feels that the extra hours were foisted upon him, leaving no choice.

Why do nurses consent to unwanted overtime? Sometimes we feel guilty about abandoning our patients. Other times, we feel that turning down a request from management will result in termination, harassment, or other poor treatment. We accept the additional hours grudgingly, which is a problem. Nurses who are pressured into working overtime are those who are overly tired, error-prone, and feel “used and abused.”

Some would argue that team players should always agree to work overtime when asked. This is only partially true. Sure, a team player should say yes when able, but should also know when working extra hours will cause resentment—and say no.

It is my belief that many nurses do not mind working overtime, because there is a strong financial incentive to do so. However, feelings of resentment are bred when it is perceived that overtime is used excessively, or even as a way to punish specific members of a nursing team.

When I was a Director of Nursing, I rarely found myself confronted with the need to mandate overtime. I made it a priority to keep a full complement of staff. On those rare occasions when I would need to request that a nurse work additional hours, I always began my request with, “I have the right to ask you to work overtime, and you have the right to refuse.” In most cases the first nurse I’d ask would agree because I did my homework in advance, identifying who on the staff was most likely to be receptive to the request. Since they were given permission to say no, they felt free to do so if they were unable to help.

Forced overtime is one way for hospitals to work around staffing shortfalls, which probably happens all too often. The constant use of overtime may be symptomatic of substandard management. An extremely capable Chief Nursing Officer (CNO), Director of Nursing (DON), and even charge nurse does not need to rely upon a continuous use of overtime because where there is good and solid nursing management, you’ll find happy nurses, and as a rule, a complete nursing staff. Therefore, there will be less reliance on registry and overtime to compensate for the staffing shortfalls.

Nursing management must make good on their promises when negotiating an overtime deal with a nurse. Many years ago I was on my second 12-hour shift in NICU caring for the same two patients. About halfway through my shift, the charge nurse approached me and very politely asked if I would consider working

an additional 12 hours. (I would be working 24 hours straight.) I agreed, under the condition that I would have the same two patients. This way, even though I was working an additional 12 hours, I wouldn't have the added burden of familiarizing myself with two new patients and their medical history.

At the change of shift, I was met by a nurse who stated that she was there to take report and assume the care of the patients. I was to see the charge nurse for my new assignment. I excused myself, found the charge nurse, and asked what was going on. She hemmed and hawed and gave some excuse. I firmly, but politely, reminded her of her agreement. Reluctantly she admitted I was right, and I kept my same assignment.

Nurses understandably will come to feel victimized when agreements made in exchange for accepting overtime requests are ignored or minimized. For example, a nurse agrees to work overtime during a two-week period and in return will get the following two weeks off. When the two weeks of overtime are over, the nurse finds that she is denied her two weeks off, as previously agreed upon, and she's angry. When a manager makes promises, it is imperative that they are kept.

If, in your opinion, overtime is being forced and punitive action used, you can make a complaint using these resources. It is important in these situations to document carefully. Once again, if you work at a union-represented hospital, then there may be other protocol to be followed.

- The State of California, Division of Labor Standards Enforcement. The DLSE investigates public work complaints, adjudicates wage claims, and investigates complaints alleging retaliation for exercising rights under the Labor Code; and enforces Labor Code statutes and Industrial Welfare Commission orders. The list of district offices and contact information can be found on the Internet at dir.ca.gov/dlse/DistrictOffices.htm.

Or by mail at the Department of Industrial Relations (DIR), Office of the Director, 455 Golden Gate Avenue, San Francisco CA 94102.

- The U.S. Department of Labor. Their Compliance division is an excellent resource with sections devoted to Employment Law, wages and hours worked, termination issues, etc. You can contact the U.S. Department of Labor in writing or by telephone at: Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210, 1-866-487-2365 or on the Internet at dol.gov/compliance/.

There are other resources available to you, such as labor law experts and attorneys. Don't overlook your hospital's human resources office (they will often surprise you) and your union resource, if applicable.

All too often I hear nurses bemoaning that they are unable to advocate for themselves, as they are too busy working, caring, and advocating for their patients. Personally, I believe that it is impossible for nurses to properly advocate for their patients if they are unable to advocate for themselves.

Overtime is a very real part of a nurse's worklife. But it needn't be forced or mandatory. Of course, the exception is a state of emergency at your workplace, where a state of "all hands on deck" will be required until the crisis has passed. **WN**



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