



POLICY STATEMENT
Commonwealth of Pennsylvania • Department of Corrections

Policy Subject: Prohibition of Excessive Overtime in Health Care Act		Policy Number: 13.3.1
Date of Issue: July 1, 2009	Authority: Signature on File Jeffrey A. Beard, Ph.D.	Effective Date: July 1, 2009

I. AUTHORITY

The Authority of the Secretary of Corrections to direct the operation of the Department of Corrections is established by Sections 201, 206, 506, and 901-B of the Administrative Code of 1929, 71 P.S. §§61, 66, 186, and 310-1, Act of April 9, 1929, P.L. 177, No. 175, as amended.

II. APPLICABILITY

This policy is applicable to all facilities operated under the jurisdiction of, or conducting business with the Department of Corrections.

III. POLICY

It is the policy of the Department to comply with Act 102 of 2009, Ban on Mandatory Overtime for Direct Patient Caregivers.

IV. PROCEDURES

All applicable procedures are contained in the procedures manual that accompanies this policy document.

V. SUSPENSION DURING AN EMERGENCY

In an emergency or extended disruption of normal facility operation, the Secretary/designee may suspend any provision or section of this policy for a specific period.

VI. RIGHTS UNDER THIS POLICY

This policy does not create rights in any person nor should it be interpreted or applied in such a manner as to abridge the rights of any individual. This policy should be interpreted to have sufficient flexibility to be consistent with law and to permit the accomplishment of the purpose(s) of the policies of the Department of Corrections.

VII. RELEASE OF INFORMATION AND DISSEMINATION OF POLICY

A. Release of Information

1. Policy

This policy document is public information and may be released upon request.

2. Confidential Procedures (if applicable)

Confidential procedures for this document, if any, are not public information and may not be released in its entirety or in part, without the approval of the Secretary of Corrections/designee. Confidential procedures may be released to any Department of Corrections employee on an as needed basis.

B. Distribution of Policy

1. General Distribution

The Department of Corrections' policy and procedures shall be distributed to the members of the Central Office Executive Staff, all Facility Managers, and Community Corrections Regional Directors on a routine basis. Distribution of confidential procedures to other individuals and/or agencies is subject to the approval of the Secretary of Corrections/designee.

2. Distribution to Staff

It is the responsibility of those individuals receiving policies and procedures, as indicated in the "General Distribution" section above, to ensure that each employee expected or required to perform the necessary procedures/duties is issued a copy of the policy and procedures either in hard copy or via email, whichever is most appropriate.

VIII. SUPERSEDED POLICY AND CROSS REFERENCE

A. Superseded Policy

1. Department Policy

This document establishes policy and procedures on this subject.

2. Facility Policy and Procedures

This document supersedes all facility policy and procedures on this subject.

B. Cross Reference(s)

1. Administrative Manuals

None

2. ACA Standards

a. Administration of Correctional Agencies: None

b. Adult Correctional Institutions: None

c. Adult Community Residential Services: None

d. Correctional Training Academies: None



PROCEDURES MANUAL
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Release of Information:

Policy Document: This policy document is public information and may be released upon request.

Procedures Manual: The procedures manual for this policy may be released in its entirety or in part, with the prior approval of the Secretary/designee. Unless prior approval of the Secretary/designee has been obtained, this manual or parts thereof may be released to any Department employee on an as needed basis only.

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Section 1 – Medical Staff Absences/Replacements

A. Medical Staff Absences

1. When a medical staff member is not available for a regularly scheduled shift due to approved leave (after the schedule was posted) or unexpected absence, the Corrections Health Care Administrator (CHCA)/Registered Nurse Supervisor (RNS)/designee will complete the following:
 - a. document the absence on the **Medical Staff Absence Report (Attachment 1-A)**;
 - b. when a medical staff member reports an absence of any type, document all required information on the **Medical Staff Absence Report**, to include: staff member name; date; time; and type of absence;
 - c. determine if replacement of the medical staff member is necessary based on the workload and clinical requirements of the Medical Department at that time, and, if so, make staffing or operational changes to avoid using voluntary or mandatory overtime, in accordance with collective bargaining agreements; and
 - d. document voluntary and mandatory medical staff overtime on the **Medical Staff Absence Report**.
2. The **Medical Staff Absence Reports** will be included in the daily shift-to-shift reports and also sent to the CHCA.
3. After replacement efforts and resolution have been completed, copies of applicable **Medical Staff Absence Reports** will be attached to the RNS/designee's working master schedule.
4. Completed **Medical Staff Absence Reports** will be securely filed in the CHCA's or RNS's office.

B. Medical Staff Replacement Process

1. Staff replacement procedures shall include the following:
 - a. use the Registered Nurse (RN), Licensed Practical Nurse (LPN), Certified Nursing Assistant (CNA) voluntary overtime sign-up log. The CHCA/RNS/designee will maintain the voluntary and mandatory overtime logs for each classification: RN, LPN, CNA, Dental Assistant, Dental Hygienist to ensure the appropriate assignment/equalization of mandatory and voluntary overtime;
 - b. seek volunteers from medical staff at work or those willing to report to work;
 - c. use the nurse agency pool, if available, and in accordance with the collective bargaining agreements/local agreements; or

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Section 1 – Medical Staff Absences/Replacements

- d. use medical staff from a local facility, if available, and in accordance with the collective bargaining agreements/local agreements.

NOTE: The CHCA/RNS/designee will document the applicable medical staff replacement on the **Medical Staff Absence Report**.

- 2. When the determination has been made to fill an absence, the following time frames will be used by the CHCA/RNS/designee:
 - a. if the notification of the absence is within eight hours or less of the scheduled shift, the CHCA/RNS/designee will, at a minimum, complete the actions in **Subsection B.1.a. & b. above**;
 - b. if the notification of the absence is greater than eight hours and less than 24 hours of the scheduled shift, the CHCA/RNS/designee will complete the actions in **Subsection B.1.a. – d. above**; or
 - c. if the notification of the absence is greater than 24 hours, the CHCA/RNS/designee shall attempt to modify staffing or Medical Department operations, in accordance with collective bargaining agreements, and complete the actions in **Subsection A.1.a. – d. above**.

Section 2 – Use of Mandatory Overtime

A. Mandatory Overtime

Mandatory overtime may be used as a last resort in accordance with the procedures listed below.

1. If an unforeseeable emergency circumstance occurs as declared by the Secretary/designee.
2. If the notification of the absence is less than 24 hours prior to the scheduled shift, and the replacement steps outlined in **Section 1** of this procedures manual were unsuccessful.
3. To provide Registered Nurse (RN) coverage on each shift to assure patient safety, in accordance with Department policy **13.2.1, “Access to Health Care.”**
 - a. If all efforts to replace an RN have failed and it has been determined that medical care of inmates would be adversely affected if the absent staff member were not replaced, the Corrections Health Care Administrator (CHCA)/Registered Nurse Supervisor (RNS)/designee will obtain the approval of the Facility Manager/designee to mandate overtime. A **DC-121, Report of Extraordinary Occurrence** shall be completed in accordance with Department policy **6.3.1, “Facility Security.”**
 - b. To maintain a minimum of one RN per shift, the RNS, if available will stay until another RNS or RN can provide relief.
4. When an employee is required to work overtime to complete a patient care procedure in progress and the absence of the employee could have an adverse effect on the patient.
5. Mandatory overtime will not be approved to cover a shift that was posted as unfilled on the work schedule.

B. Required Accommodations

1. Medical staff mandated for overtime shall be provided up to one hour to arrange for the care of their minor child or elderly or disabled family member.
2. If the designed medical staff member leaves the facility, they will not be compensated for the hour. If the medical staff member remains on the facility grounds, they will be compensated for the hour.
3. The CHCA/RNS/designee will be responsible for documenting the use of the hour on the **Medical Staff Absence Report** (refer to **Section 1** of this procedures manual) and will be responsible to ensure time usage is accurately reports in the ESS/SAP system.

C. Waivers to Voluntarily Accept Overtime

1. Using the **Waiver to Voluntarily Accept Overtime (Attachment 2-A)**, medical staff may voluntarily elect to waive Act 102 restrictions to:
 - a. work in excess of the agreed to, predetermined and regularly scheduled daily work shift; and
 - b. have 10 hours of off-duty time after working more than 12 consecutive hours;
2. The CHCA/RNS/designee will be responsible for documenting these actions on the **Medical Staff Absence Report** and require the medical staff member to complete the **Waiver to Voluntarily Accept Overtime** and the **Waiver of Off-Duty Time (Attachment 2-B)**.
3. The **Waiver to Voluntarily Accept Overtime** and the **Waiver of Off-Duty Time** will be attached to the **Medical Staff Absence Report**.

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Glossary of Terms

Act 102 of 2008. Title 43 (Chapter 15A), Section 932 – Commonly referred to as the “Prohibition of Excessive Overtime in Health Care Act,” effective July 1, 2009.

Corrections Health Care Administrator (CHCA) – The facility staff member responsible for overseeing the delivery of comprehensive medical services to the inmate population via the medical vendor and Department staff.

Medical Staff – Staff covered under the provision of Act 102 and this policy include: Registered Nurse (RN); Licensed Practical Nurse (LPN); Certified Nurse Aide (CAN); Dental hygienist; Dental Assistant.

Unexpected Absences – An absence discovered at or before the commencement of a scheduled shift, which could not be prudently planned for by an employer, and which would significantly affect patient safety. The term does not include vacancies that arise as a result of chronic short staffing.

Unforeseeable Emergent Circumstances – Defined as any of the following:

1. an unforeseeable declared national, state or municipal emergency.
2. A highly unusual or extraordinary event which is unpredictable or unavoidable and which substantially affects the provision of needed health care services or increases the need for health care services, including:
 - a. an act of terrorism;
 - b. a natural disaster;
 - c. a widespread disease outbreak; and
 - d. emergency lockdowns at a facility due to security or health reasons (quarantine).

NOTE: Lockdowns due to routine, pre-planned searches or drills are not defined as unforeseeable emergencies.