

Working Extra Hours: Guidelines on Fitness to Practise and the Provision of Safe, Competent, Ethical Nursing Care

September 2011

Approved by the College and Association of Registered Nurses of Alberta (CARNA) Council, September 2011.

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Across Alberta, registered nurses in direct care, management and other roles face increased requests and requirements to work **EXTRA HOURS**¹. Extra hours may take the form of planned or unplanned overtime, mandatory overtime, staying on after the end of a shift or working extra shifts on scheduled days off or during vacation time. The following guidelines for registrants² outline key factors for consideration in making decisions about requesting, requiring or working extra hours. The guidelines aim to

- ensure the provision of safe, competent, ethical nursing care; and
- protect the health, safety and practice of CARNA registrants.

Registrants' professional responsibilities and obligations are set by the legislated requirements of the *Health Professions Act (HPA)* (2000), the *Registered Nurses Profession Regulation* (2005), the College and Association of Registered Nurses of Alberta (CARNA) *Nursing Practice Standards* (2003), and the Canadian Nurses Association (CNA) *Code of Ethics for Registered Nurses* (2008). Registrants of CARNA have a professional responsibility to ensure their **FITNESS TO PRACTICE**. Furthermore, the *Registered Nurses Profession Regulation* (2005) requires that all applicants for registration as a registrant of CARNA must, on the request of the Registrar, submit evidence confirming the registrant's fitness to practice.

A review of data from Statistics Canada labour force surveys shows that the **OVERTIME RATE** for registered nurses continues to climb, which is consistent with reported service shortages and rising workloads, pace and intensity. It is estimated that in Canada, overtime increased by 58% between 1997 and 2005 (CNA, 2006). More recent statistics indicate that nurses worked 21,560,100 hours of overtime in 2008, the equivalent of 11,900 jobs. Of note, the overtime rate was up in 2008 to 31 per cent from 29.3 per cent in 2005. For paid overtime, the rate increased to 21.3 per cent in 2008 from 19.9 per cent in 2005. For unpaid overtime, the rate remained relatively constant at 12.9 per cent in 2008 compared to 12.8 per cent in 2005. Nursing supervisors and registered nurses in direct care provider roles are more likely to work overtime (Lasota, 2009).

The impact of fatigue arising from working extra hours on patient safety has been described in the research literature. Rogers et al (2004) found that nurses who work overtime were three times as likely to make an error if they worked shifts lasting 12.5 hours or more. Similar findings have been reported by Scott et al (2006) who studied the work patterns of critical care nurses to determine if an association exists between the occurrence of errors and the hours worked by nurses. They found that longer work duration increased the risk of errors and near errors and decreased nurses' vigilance.

¹ Words or phrases displayed in **BOLD CAPITALS** upon first mention are defined in the glossary.

² Registrants include registered nurses (RN), graduate nurses (GN), certified graduate nurses (CGN), nurse practitioners (NP), and graduate nurse practitioners (GNP).

Other consequences of fatigue identified in the literature include

- reduction of skillful anticipation and patient safety;
- diminished judgment, degraded decision-making, slowed reaction time and lack of concentration;
- absenteeism;
- clinical errors, failure to rescue, falling asleep when driving home; and
- interpersonal consequences, including decreased quality of interaction with colleagues and patients.

(CNA & RNAO, 2010)

Guideline 1

When the potential for scheduling or working extra hours is either requested or required, the paramount **DUTY** is to protect the **CLIENTS'** right to safe, competent, ethical nursing care.

Registrants in direct care must balance the **DUTY TO PROVIDE CARE** for clients with an equal duty to ensure that their fitness to practise competently does not threaten their own safety and the safety of co-workers and clients. Registrants in other roles (e.g., clinical educators, managers, administrators) share this responsibility with those in direct care.

Nurse managers and administrators are obliged to promote practice environments where fitness to practise and safe care can be maintained. These administrative obligations include responding effectively to concerns about nursing care coverage by obtaining alternate qualified staff, limiting elective admissions and procedures, or other appropriate measures. Registered nurse managers and administrators must also plan proactively to create quality practice environments by focusing on implementing and supporting appropriate care delivery processes and workload management practices. Examples include:

- establish safe scheduling practices and policies for nursing staff that limit hours worked by a nurse a) in one day to 12 hours, exclusive of shift hand-off and inclusive of on-call hours, and b) in one 7-day period to 48 hours, inclusive of on-call hours
- develop processes to document fatigue in the workplace and its relationship to overtime; maximum hours worked per day and per week; on-call hours; and data related to patient error, staff retention levels and recruitment results.

(CNA, 2010)

Guideline 2

Each registered nurse is the best to judge and make their own decision of when they are fit to practice.

When deciding to work extra hours, nurses act on their ethical obligation to maintain fitness to practice (CNA, 2010). If you are asked or required to work extra hours, assess your fatigue and your mental and physical ability to safely perform the essential functions of your role for the period of time that has been specified. If you judge that you are able to remain competent while remaining at work or working other extra hours, the decision to continue working is professionally responsible and fulfills the duty to care. Let your employer know how long you can safely continue and ask that relief be provided by that time to ensure that you remain fit to practise in a competent manner.

Guideline 3

When fatigue or other factors negatively affect your fitness to practise safely, registered nurses have a right and a duty to withdraw from or refuse requests or requirements to work extra hours.

Nurses take responsibility for mitigating and managing fatigue while at work, including using professional approaches to decline work assignments (CNA, 2010). Explain your reasons for refusal to work extra hours to your employer and ask that other measures be taken to ensure nursing coverage. Indicate how long you are able to stay while a replacement is found. If you are not at work at the time that the request or requirement for extra hours arises, indicate to the best of your ability when you feel that you will be fit to return to work.

Guideline 4

When you face requests or requirements to work extra hours that give rise to safety concerns for clients, coworkers, or yourself, provide written documentation of your concerns to your employer.

Use *Appendix 2: Addressing Unsafe Practice Situations* of the *CARNA Nursing Practice Standards* to identify and communicate your concerns. To minimize your liability, consult with the Canadian Nurses Protective Society (CNPS) toll free at 1-800-267-3390 regarding

what documentation to complete for which parties. In unionized workplaces, the collective agreement outlines processes for staff nurses to document and address staff nurse concerns.

Guideline 5

Registered nurse employees and employers have respective obligations and rights regarding the use of overtime under the provincial labour code, under occupational health legislation, under collective agreements that apply for unionized employees and under the provincial employment standards code that applies for non-unionized employees.

Employers and registered nurses in unionized settings should be aware of and adhere to the provisions of collective agreements with respect to the use of overtime, including who may be required to work overtime, and for what maximum length of time.

The *Occupational Health & Safety Act* (2000) describes obligations of employers and workers as follows:

2(1) Every **Employer** shall ensure, as far as it is reasonably practicable for him to do so,

- a. the health and safety of
 - i. workers engaged in the work of that employer, and
 - ii. those workers not engaged in the work of that employer, but present at the work site at which the work is being carried out
- b. that the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act and the regulations.

(2) Every **Worker** shall, while engaged in an occupation,

- a. take reasonable care to protect the health and safety of himself and of other workers present while he is working, and
- b. co-operate with his employer for the purposes of protecting the health and safety of
 - i. himself
 - ii. other workers engaged in the work of the employer, and
 - iii. other workers not engaged in the work of that employer but present at the work site at which that work is being carried out

Guideline 6

Employers and nurses share an ethical and legal responsibility to ensure that RNs are not required or do not voluntarily work when they are fatigued and potentially unsafe to practice.

Some registered nurses may choose to voluntarily work extra hours. In making this decision, they must ensure that the working of extra hours does not impact on their fitness to practice.

Guideline 7

Registrants in any role are ethically obliged to work together to address staffing shortages that threaten the safety of client care.

Whether individual requirements for extra hours are met or not, the long term use of extra hours to meet the daily requirements for nursing coverage threatens client safety as well as the health of nurses and co-workers. Adequate staffing to meet the requirements for nursing care is a fundamental characteristic of safe care and of a healthy workplace. The chronic use of extra hours to provide adequate nursing coverage is an inadequate and ultimately detrimental solution to a deepening shortage of qualified nursing professionals. Nurses can work together to make a difference by advocating for better health human resource planning, healthier practice environments, more research and best practices in the delivery and evaluation of nursing services.

Glossary

CLIENT – The person or persons receiving nursing care. Can refer to patients, residents, families, groups, communities and populations.

DUTY – An obligation that one individual owes another.

DUTY TO PROVIDE CARE – Nurses have a professional duty and a legal obligation to provide persons receiving care with safe, competent, compassionate and ethical care. There may be some circumstances in which it is acceptable for a nurse to withdraw from care provisions or to refuse to provide care (CNA, 2008).

EXTRA HOURS – The number of hours worked during the reference week in excess of the usual hours reported in the main job (Statistics Canada, 2011). These additional hours of work may take the form of planned or unplanned overtime, mandatory overtime, staying on after the end of a shift or working extra shifts on scheduled days off or during vacation time.

FITNESS TO PRACTICE – Fitness to practice refers to all the qualities and capabilities of an individual relevant to his or her capacity to practise as a registered nurse, including, but not limited to, freedom from any cognitive, physical, psychological or emotional condition and dependence on alcohol or drugs that impairs his or her ability to practise nursing (CNA, 2008). Fitness to practice means that the registered nurse restricts or accommodates practice if he/she cannot safely perform essential functions of the nursing role due to mental or physical disabilities (CARNA, 2003).

OVERTIME RATE – The number of hours worked during the reference week in excess of the usual hours reported in main job divided by those present during the reference week. This includes those working paid and unpaid overtime (Lasota, 2009)

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Resources

Employment Standards Code, R.S.A. 2000, c. E-9.

Labour Relations Code, R.S.A. 2000, c. L-1.

United Nurses of Alberta, www.una.ab.ca.

If you face situations regarding the use of extra hours in your setting that are not resolved by using these guidelines, or if you have questions about any practice issue, call a CARNA Policy and Practice Consultant – Professional Practice Support at 1-800- 252-9392 ext. 504.