



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

APPROVAL # 96
CHAPTER # 815

December 30, 2022

MEMORANDUM filed with Assembly Bill 286-A, entitled:

“AN ACT to amend the labor law, in relation to the restrictions on consecutive hours of work for nurses”

APPROVED

This legislation would require the Commissioner of Labor, following an investigation and a determination of a violation by an employer, to issue an order directing compliance with existing prohibitions on the use of mandatory overtime for nurses. The Commissioner must assess the employer with a civil penalty not to exceed \$1,000 for the first violation, \$2,000 for the second violation, and \$3,000 for the third and any subsequent violation. The employee shall receive an additional fifteen percent of the overtime payment from the employer as damages for each violation.

I support the goals of this legislation. Mandating a nurse to work additional hours following completion of a twelve-hour shift leads to employee burnout and can negatively affect patient care. However, New York is one of many states currently facing a severe health care staffing shortage. Hospitals and nursing homes are struggling to find the necessary staff to meet the demands of the patients that they serve. To severely limit the already narrow exceptions for when health care employers are able to mandate overtime of nurses during these staffing shortages could result in hospitals and nursing homes decreasing the number of beds they have available to serve patients. This legislation also contains language that contradicts another bill passed by the Legislature this session, Senate Bill 8063-A/Assembly Bill 8874-B. Unchanged, both bills could not be signed into law as they amend the same section of law and create different structures for civil penalties.

Therefore, I have come to an agreement with the Legislature to ensure that employers cannot abuse the current exceptions in the law to mandate overtime from their employees due to their inability to create adequate staffing plans. As part of this agreement, the Department of Labor (DOL) will establish an Enforcement Officer who will oversee investigations into complaints of violations of a newly created reporting requirement for health care employers who mandate overtime over certain periods of time. Employers will be required to report to the DOL and the Department of Health when they mandate overtime more than 15 days in any given month. Further, an employer that utilizes mandatory overtime for 45 days or more in any consecutive three-month period must provide the State with an estimate of when they will cease to mandate overtime and an explanation for its continued use. Additionally, the agreement will require the employers to make good faith efforts to find alternate staff prior to mandating overtime, or risk financial penalty.

Nurses and health care workers have made great sacrifices throughout the pandemic. This agreement is a commitment to them that so long as they are serving patients, the State will ensure they are treated with the dignity and respect they deserve. On the basis of this agreement, I am pleased to sign this bill into law.

This bill is approved.

Ruth Hochul