



A Position Statement on Mandatory Overtime

BACKGROUND

CFNU needs to establish a strong and feasible position on mandatory overtime.

Mandatory overtime is a complex issue and a challenging one to address for several reasons. The inextricable link between mandatory overtime and professional practice and ethics makes this issue so important and at the same time so rarely addressed. Practically speaking, the consistency and clarity of language and definitions used to describe such circumstances also present a challenge due to variation across collective agreements.

Although the word “mandatory” is rarely, if ever, used in a collective agreement or by an employer, for the purposes of this discussion, CFNU considers all instances where employees are “required” to work outside of regularly scheduled working hours to be mandatory. Again, this issue is complex because some interpret the word “required” to mean either that overtime was ordered, or that overtime was requested and the nurse agreed to work. However, we feel that this distinction is not an important one to make because nurses agree to work overtime for many reasons. Sometimes they accept overtime because of a sense of loyalty to their colleagues or duty to their patients/residents/clients – this is the compassionate nature of nurses.

Although the right to refuse overtime is critical, another important aspect of this issue that must not be ignored is the practice of nurses “accepting” overtime as a direct result from pressure or bullying by employers who are running units and institutions that are severely understaffed. When nurses do escape these pressures and have a day off, it is rare for such a day to pass without the interruption of a call offering overtime hours. The 2003 arbitration between the Ontario Nurses’ Association and participating hospitals on the issue of grievances of overtime and premium pay notes that the spirit of compromise is lost when control over working hours is revoked.ⁱ The arbitration found that the impact of extending mandatory overtime to include non-emergency situations would have a significant impact on the relationship between nurses and their employer.

These issues will be explored in more detail in the following section, and this document will conclude with a position stemming from that discussion.

Workforce Snapshot and Impacts of Overtime

The challenges that nurses face in the work environment – excessive workloads; high rates of overtime; high rates of illness, injury and burn-out; and violence, to name a few – has ranked nursing as one of the sickest professions.

In 2005, RNs worked an estimated 349,800 hours per week (18.2 million hours annually) of paid and unpaid overtime - the equivalent of 10,054 full-time positions.ⁱⁱ

*The Nursing Sector Study, Research Synthesis Report,*ⁱⁱⁱ noted that nurses working in an over-utilized capacity (over 40 hours of work per week, involuntary overtime or voluntary overtime, and frequent shift change) were more likely to report incidences of violence. (p.33)

Working on nursing units that are short-staffed, working excessive paid and unpaid overtime, being called in to work on days off, and the inability to take vacation time are all commonplace and contribute to fatigue and burnout.

Nurses report feeling that excessive work pressures and unfavorable working conditions in hospital and non-hospital settings are taking a toll on their physical and mental well-being.^{iv}

The Quality Worklife - Quality Healthcare Collaborative has identified overtime as a negative indicator to quality of worklife because high levels of overtime may reflect inadequate staffing or high levels of absenteeism and may result in workload issues and increased costs.^v

Excessive overtime is not only detrimental to the health of nurses, but it also negatively impacts the quality of patient/resident/client care and the healthcare system's ability to maintain a solid workforce.^{vi} Inappropriately managed overtime leads to negative nurse and patient/resident/client outcomes, and therefore CFNU believes that it is unprofessional and unjust to mandate overtime.

Relationship between Overtime, Ethics and Professional Practice

In today's healthcare environment – which is commonly and severely under-staffed and under-funded – nurses are frequently faced with the challenge of fulfilling their ethical duty to care for their patients/residents/clients.^{vii} The idea that resources are scarce and unattainable is too common and accepted in nursing practice, resulting in an emphasis on efficiency with scarcity, or doing “the best you can with what you have”^{viii}.

The psychological impact on nurses who feel that their ability to provide high-quality care is compromised, is known as *ethical distress* and manifests itself as a sense of guilt and anxiety.^{ix} This often occurs when they hear that their colleagues are working short and patient/resident/client care might be suffering. Ethical distress often results in nurses accepting overtime to help relieve some of the burden on their colleagues – which is then translated into guilt for spending yet another shift away from their families.

The Code of Ethics requires nurses maintain their fitness to practice. When nurses feel that they lack the physical, mental or emotional capacity to practice safely they must withdraw from the provision of care.^x It is important that refusing duty to care is not confused with client abandonment which occurs when a nurse leaves before the end of a scheduled shift, or being unavailable during a scheduled shift for a period of time that compromises patient/resident/client care.

Research shows that the impact on nurses and patient/resident/client care is negative when the level of overtime is not managed or controlled. Evidence suggests that the increasing use of overtime has a negative impact on both patient/resident/client and nurse safety.

CFNU's constitution – and all our member organizations – share a core purpose which is to be a proactive, unifying national voice for quality health care and the socio-economic welfare of nurses and others.”^{xi} Therefore, we urge healthcare policy makers to (1) eliminate unpaid overtime, (2) stop paid mandatory overtime, (3) reduce paid overtime, and (4) create more full-time jobs within healthcare organizations and in our communities.^{xii}

PROPOSED POSITION

CFNU's *Renewed Call for Action*^{xiii} recommended that employers need to end practices that contribute to poor physical and mental health of nurses, including, for example, “overuse practices” like mandatory paid and unpaid overtime and call-back.

Human resource strategies are needed that will first address on an interim basis the scheduling problems caused by the shortage of nurses and, secondly, work toward a health human resource plan for the future. In alignment with years of nursing research, CFNU supports a call for the promotion of innovative, responsive scheduling and the abolishment of mandatory overtime.^{xiv}

CFNU believes that the practice of mandating overtime is unprofessional, unsafe and unjust. It is the position of the Canadian Federation of Nurses Unions to reject the practice of officially mandating nurses to work overtime as well as the practice of coercing or pressuring a nurse into accepting overtime.

With the exception of disaster situations, or emergency circumstances (where the Code of Ethics outlines the *duty to provide care*), nurses unions feel that there are no circumstances whereby employers should mandate employees to work overtime. Mismanagement of human resources and chronic unfilled vacancies do not constitute emergency conditions or grounds for ordering mandatory overtime. Additionally, the right to refuse duty to care may also be applied during an emergency situation when ability to provide safe care is compromised by unreasonable expectations, lack of resources or ongoing threats to personal well-being.^{xv}

The CFNU understands that professional standards and ethics which – nurses take very seriously – require them to maintain continuity of care until patients/residents/clients are under safe care. This and other unanticipated requirements to address patient/resident/client well-being may, at the discretion of the nurse, require overtime to be performed. However, the employer should work with the nurse to explore staffing solutions that will alleviate him/her from an obligation to remain in such situations. The Code of Ethics for nurses states that nurses must treat each other with respect – recognizing power differentials among those in formal leadership positions.^{xvi} This guideline must also apply to employers and adhered to when requesting employees to accept overtime hours.

Excessive overtime is an occupational health and safety hazard, and as such, it is the responsibility of the employer to ensure that the right number and mix of nursing staff are available. In turn, this will support nurses in meeting their Standards of Practice.^{xvii} Given the current crisis in health human resources, alternative solutions should be explored between nurses' unions and employers to avoid the mandating of overtime in every possible circumstance.

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ⁱ Ontario Nurses Association (2003). *Arbitration between the Ontario Nurses Association and participating hospitals on the issue of grievances of overtime and premium pay.*

ⁱⁱ Janssen, S., & McCracken, M.C. (March 2006). Trends in Illness and Injury-Related Absenteeism and Overtime among Publicly Employed Registered Nurses: Summary of Key Findings. Document prepared for: The Canadian Nurses Association, p. 8.

ⁱⁱⁱ O'Brien-Pallas, L., Tomblin Murphy, G., White, S., Hayes, L., Baumann, A., Higgin, A., Pringle, D., Birch, S., McGillis Hall, L., Kephart, G., Wang, S. (2004). *Building the Future: An integrated strategy for nursing human resources in Canada – Research Synthesis report of research findings.* Ottawa, ON: Nursing Sector Study Corporation.

^{iv} Maddalena, V. & Crupi, A. (2008). *A Renewed Call for Action: A Synthesis Report on the Nursing Shortage in Canada. 2008.* Ottawa: CFNU.

^v QWQHC. (n.d.) Indicators of Healthy Workplaces. Retrieved from <http://www.qwqhc.ca/indicators-healthy-workplaces.aspx#sec6>.

^{vi} Canadian Federation of Nurses Unions (n.d.). Work Environment. Retrieved from <http://www.nursesunions.ca/content.php?doc=34>.

^{vii} Canadian Nurses Association (September 2000). Working with Limited Resources: Nurses Moral Constraints. *Ethics in Practice.*

^{viii} Varcoe & Rodney (In press). Constrained agency: The social structure of nurses' work. In B.S. Bolaria & H. Dickinson, *Health, illness and health care in Canada* (3rd ed.). Toronto, ON: Harcourt Brace.

^{ix} Canadian Nurses Association (1998). Ethical Issues Related to Appropriate Staff Mixes. *Ethics in Practice.*

^x Canadian Nurses Association (2008). *Code of Ethics for Registered Nurses. Being Accountable: Section 4.* Centennial Edition.

^{xi} CFNU (2008). Constitution as amended at 2007 Convention. Retrieved January 31st 2009 from: <http://www.nursesunions.ca/content.php?doc=41>.

^{xii} Nursing Sector Study Corporation (May, 2005). *Building the future: An integrated strategy for nursing human resources in Canada: Phase I Final Report.* Ottawa, ON: The Nursing Sector Study Corporation.

^{xiii} Maddalena, V. & Crupi, A. (2008). *A Renewed Call for Action: A Synthesis Report on the Nursing Shortage in Canada.* Ottawa, ON: CFNU.

^{xiv} Excerpted from Advisory Committee on Health Human Resources (2002). *Our Health, Our Future. Creating Quality Workplaces for Canadian Nurses: Final Report of the Canadian Nursing Advisory Committee.* Source: <http://www.hc-sc.gc.ca>, pp.35-45.

^{xv} College of Registered Nurses of British Columbia (2007). Practice Standard: Duty to Provide Care. Vancouver: Author.

^{xvi} Canadian Nurses Association (2008). *Code of Ethics for Registered Nurses. Preserving Dignity: Section 10.* 2008 Centennial Edition.

^{xvii} College of Registered Nurses of British Columbia (2007). *Professional Standards for Registered Nurses and Nurse Practitioners: Appendix 4: Guidelines for Resolving Professional Practice Problems.* Vancouver: Author.