I. PURPOSE
To ensure uniform guidelines for compliance with NYS Labor Law §167 regarding the use of mandatory overtime.

II. POLICY
The Department of Nursing Services will adhere to this policy to prevent mandatory overtime for SUNY UHB employed, full-time, part-time, and per diem RNs and LPNs.

III. DEFINITION
As provided in statute S- 167 “Emergency” shall mean an unforeseen event that could not be prudently planned for by a health care employer and does not regularly occur, including an unanticipated staffing emergency.

IV. RESPONSIBILITIES
Staffing Office, ADNs, WHEN Supervisors, Associate Directors of Nursing, Directors of Nursing, Deputy Directors of Nursing, and AVP Peri-Op Service/CNO.
V. PROCEDURES/GUIDELINES

I. ADNs, Associate Directors of Nursing, Directors, and WHEN Supervisors are responsible for ensuring that before each occurrence of Mandatory Overtime, the Deputy Directors of Nursing, and AVP of Peri-Op Service/CNO are informed.

The limitations provided for in law shall not apply in the case of:

1. A health care disaster, such as a natural or other type of disaster unexpectedly affecting the county in which the nurse is employed or in a contiguous county that increases the need for health care personnel or requires the maintenance of the existing on-duty personnel to maintain staffing levels necessary to provide adequate health care coverage. A determination that a health care disaster exists shall be made by the health care employer and shall be reasonable under the circumstances. Examples of health care disasters within the meaning of this Part include, but are not limited to, unforeseen events involving multiple serious injuries (e.g. fires, auto accidents, a building collapse), chemical spills or releases, or a widespread outbreak of an illness requiring hospitalization for many individuals in the community served by the health care employer.

2. A federal, state or county declaration of emergency in effect pursuant to New York Executive Law Article 2-B and applicable federal law in the county in which the nurse is employed or in a contiguous county if the health care employer is requested, or otherwise is expected, to provide an exceptional level of emergency or other medical services as a result of such emergency.

3. A determination by a health care employer that there is an emergency that requires the continued presence of the nurse to provide safe patient care.

Nursing Coverage Plans:

1. All nursing units are to have proper nurse coverage (staffing) plans in place and operational which contemplates and, in the ordinary course of providing patient services, anticipates and addresses unscheduled absences (i.e., call-ins by individual nursing staff).

2. Prior to directing mandatory overtime beyond the tour of duty, alternate methods of staffing available are to be explored and if available used. For example but not limited to:
   a. Use of voluntary overtime from RN, LPN on duty/off duty
   b. Agency personnel
   c. Per Diems
   d. Assignment of Float Nurses and Floating between units or specialty by staffing office and nursing leadership.
   e. Requesting off-duty employees to work in lieu of agency overtime or another day off.

3. Attempts to seek alternate staffing will be documented in the staffing office log book. The employees called will be placed in Res-Q and a call log generated. The date and time of the agencies called will be documented on the staffing sheet.
4. If the above options are not successful in achieving required staffing, an alternative staffing plan would be utilized to cover the “Emergency” that requires the continued presence of a nurse to provide safe patient care. This staffing plan would increase the ratio of patients to direct care given during this shift to cover the unit during this “Emergency” Plan. If no voluntary overtime is obtained from current nursing staff working on the unit, and no agency, per diem, or floating is available, and a staff member needs to leave the unit to go home, all efforts must be documented on the staffing sheet for the unit as stated above {VII (2)}.

5. All nursing Time and Attendance issues that lead to overtime situations are to be fully documented, reviewed and responded to by Nursing Administration in order to address future scenarios that would otherwise lead to unscheduled overtime. All unscheduled absences are to be reviewed for appropriate disposition.

6. All staff are required to contribute to the successful implementation of this policy and in avoiding staffing outcomes that would otherwise lead to unanticipated staffing emergencies.

VI. REFERENCES:

Restrictions on Consecutive Hours of Work for Nurses, 
(Statutory Authority: NYS Labor Law § 167)

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