



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.  
*Commissioner*

Wendy E. Saunders  
*Chief of Staff*

June 13, 2008

Dear Chief Executive Officer:

The purpose of this letter is to notify you of two recent New York State Education Department (SED) opinions that affect nursing practice. It is recommended that these opinions regarding voluntary overtime and nursing student summer employment be circulated to your facility's nursing staff, human resources staff, and nursing administrators who are responsible for coordinating staff scheduling and assigning work duties.

- **Voluntary overtime:**

SED has opined that any registered nurse who voluntarily chooses to work more than 16 continuous hours in a 24 hour period may be subject to a charge of unprofessional conduct stemming from willful disregard of patient safety. The opinion can be found at the following link: <http://www.op.nysed.gov/nursevolvertime.htm>.

- **Nursing Student Summer Employment**

Please refer to the attached position letter from the SED.

Please direct questions regarding SED's policies to the New York State Board of Nursing at 518-474-3817 or by e-mail at [nursebd@mail.nysed.gov](mailto:nursebd@mail.nysed.gov).

Sincerely,

Martin J. Conroy  
Director  
Division of Primary & Acute Care Services

Attachments



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### Voluntary Overtime

Given the extensive literature and evidence from a broad base of professions and occupations on the positive correlation between number of hours worked and effects on job function and errors, the New York State Board for Nursing takes the following position:

Nurses, who voluntarily work beyond their normally scheduled hours in a situation which is not a declared emergency, must be able to demonstrate that they are competent to perform their professional responsibilities. Voluntarily working beyond 16 hours in a 24 hour time period will be considered by the New York State Board for Nursing as a factor in determining the willful disregard of patient safety by nurses and will be subject to a potential charge of unprofessional conduct.



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State Board for Nursing  
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To: All Facilities Employing Nursing Students  
From: Barbara Zittel, Executive Secretary to the New York State Board for Nursing  
Re: Extern/Intern Programs  
Date: May 30, 2008

Summer is rapidly approaching and the Nursing Board Office has received several inquiries about agencies/facilities hiring student nurses and providing them with an enriched orientation and preceptorship experience in return for them providing nursing care that exceeds that which may be legally provided by an aide or other unlicensed assistive personnel.

Please be advised that extern/intern experiences for student nurses are legal in New York State only if part of an academic offering (credit-bearing course) and only if the student is directly supervised by an RN with ultimate responsibility of actions provided by faculty of the nursing program. The RN staff member responsible for the supervision must be a designated preceptor who is also responsible for formally evaluating the student during the academic experience. The preceptor should have an understanding of the course, the course objectives and the evaluative role.

The hiring of nursing students for summer employment in which students are assigned tasks similar to those they assume when performing in their nursing program and beyond those that may be performed by an aide, is in violation of the Nurse Practice Act.

This position has been held by the Board and legal counsel for many years. If you have concerns or questions, please feel free to contact me by email [bzittel@mail.nysed.gov](mailto:bzittel@mail.nysed.gov) or by telephone 518-473-0134. Thank you for your assistance with this matter.