The 8/80 Overtime Rule for Hospitals and Nursing Care Facilities is Alive In Pennsylvania!

PUBLISHED ON
July 26, 2012

Earlier this month, Governor Corbett signed into law H.B. 1820, which revives the 8/80 overtime rule and gives health care institutions and nursing homes in Pennsylvania a reason to cheer. The Governor's approval of this bill is in response to a decision from the Philadelphia Court of Common Pleas and subsequent class action litigation that created turmoil over how nurses could be scheduled and paid for overtime in Pennsylvania.

Under this new law, Pennsylvania health care institutions and nursing homes can now rely on the 8/80 method of overtime calculation available under the federal Fair Labor Standards Act (FLSA), which is now fully incorporated into Pennsylvania's Minimum Wage Act. The 8/80 method is an alternative to the standard requirement to pay overtime to employees for all hours worked in excess of 40 in a 7-day workweek. Under the 8/80 method, hospitals, nursing homes, homes for the aged, and certain other medical institutions who provide residential care were permitted under federal law to pay their non-exempt employees one and one-half times their regular rate for all hours worked in excess of 8 hours in a workday, and in excess of 80 hours in a 14-day period.

Health care institutions across Pennsylvania have had a long history of using the 8/80 method to accommodate patient needs and the non-traditional schedules of a round-the-clock facility. However, after a March 2010 Philadelphia court decision in *Turner v. Mercy Health System*, ruling that the 8/80 method is not available in Pennsylvania, health care institutions faced the challenge of rescheduling their nurses and paying all non-exempt workers overtime for all hours worked in excess of 40 in a 7-day workweek, or risk being a target for class action litigation that was proliferating against hospitals in Pennsylvania.

Now, with the passage of this law, health care institutions and nursing homes once again have flexibility in scheduling their employees under the 8/80 method.