



MANAGEMENT  
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# LABOR & EMPLOYMENT UPDATE

## NEW YORK'S MANDATORY OVERTIME LAW

BY DANIEL W. MORRIS

On July 1, 2009, New York's Mandatory Overtime Law went into effect, amending New York Labor Law to prohibit covered health care employers from mandating nurses to work beyond their regular schedule in most circumstances.

The law applies to employers that: (1) provide Health Care Services; and, (2) are licensed or operated pursuant to either Article 28 of New York Public Health Law, the Mental Hygiene Law, the Education Law, or the Correction Law. It affects Registered Nurses and Licensed Practical Nurses employed by covered employers.

The Mandatory Overtime Law prohibits covered employers from requiring nurses to work more than their regularly scheduled work hours, whether the required additional time results in working overtime or not. The law does permit a nurse to voluntarily agree to work overtime and/or beyond his or her regularly scheduled work hours. It also permits an employer to include on-call time in their employees' regular schedule, but prohibits on-call time from being used as a substitute for mandatory overtime.

The Mandatory Overtime Law permits a covered employer to require an employee to work beyond their regularly scheduled hours in some situations, including: when a natural or other type of disaster in the county or surrounding county increases the need for nursing services; when a federal, state or county declaration of emergency is declared; when a nurse is engaged in an

ongoing medical or surgical procedure; or, when the health care employer determines there is an emergency and that mandating hours beyond an employees' regularly scheduled hours is necessary to provide safe patient care where no other alternative staffing is available.

The law amends the New York Labor Law and the Education Law. The amendment to the Education Law provides that an affected nurse's refusal to work beyond his or her regularly scheduled hours of work will not solely constitute patient abandonment or neglect.

The Law will be enforced by the New York State Department of Labor.

**DANIEL W. MORRIS**  
COUNSEL

Alfred Daniel W. Morris currently serves as Counsel at Clifton Budd & DeMaria, LLP. He focuses his practice on labor and employment litigation in federal and state courts as well as proceedings before governmental administrative agencies. Mr. Morris also advises clients in numerous labor and employment matters including individual employee rights, wage and hour issues and restrictive covenants, among others.



While in law school, Mr. Morris served as a legal intern with the National Labor Relations Board.

Mr. Morris received a Juris Doctor from the University of Akron School of Law, where he was a member of the Akron Law Review and the Jessup International Moot Court Regional Team. He completed a Bachelor of Arts degree at Mount Union College.

Mr. Morris is admitted to practice in the State of New York and also the U.S. District Courts of the Southern and Eastern Districts of New York and the Second Circuit. He is a member of the American Bar Association and the New York Bar Association. Outside of his work with the firm, Mr. Morris is involved with the New York Chapter of the Leukemia and Lymphoma Society and has spoken on Labor and Employment Issues for the organization. Commerce.

## CLIFTON BUDD & DeMARIA, LLP

420 Lexington Avenue, Suite 420  
New York, NY 10170-0089

Tel: 212.687.7410 | Fax: 212.687.3285

111 Washington Avenue, Suite 600  
Albany, NY 12210

Tel: 518.452.0500 | Fax: 518.689.4854

300 Broadacres Drive, Third Floor  
Bloomfield, NJ 07003

Tel: 973.338.1039 | Fax: 973.893.0499

[labor@cbdm.com](mailto:labor@cbdm.com) | [www.cbdm.com](http://www.cbdm.com)