

**REPORT OF THE DEPARTMENT OF LABOR AND INDUSTRY  
TO THE INDEPENDENT REGULATORY REVIEW COMMISSION**

**FINAL-FORM REGULATION RESUBMITTED WITH REVISIONS**

**REGULATION NO. 12-91 (#2957)**

**PROHIBITION OF EXCESSIVE OVERTIME IN  
HEALTH CARE ACT REGULATION**

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Introduction

The Commonwealth of Pennsylvania, Department of Labor and Industry (Department) is submitting the following Report to the Independent Regulatory Review Commission (Commission) in accordance with section 7(c) of the Regulatory Review Act, 71 P.S. § 745.7(c), and 1 Pa. Code § 311.4.

Act 102 of 2008, the "Prohibition of Excessive Overtime in Health Care Act," enacted October 9, 2008 and effective July 1, 2009 (act) (43 P.S. §§ 932.1-932.6) prohibits a health care facility from requiring employees to work more than agreed to, predetermined and regularly scheduled work shifts. Section 5 of the act directs the Department to promulgate regulations to implement the act within 18 months of the effective date of the act. In response to this directive, the Department drafted 34 Pa. Code, Chapter 225.

Following a public hearing on February 27, 2014, the Commission disapproved the Department's final-form regulation by Order dated March 17, 2014. The Department is now submitting a revised final-form regulation which addresses the concerns expressed by the Commission in its Disapproval Order.

Explanation of the Revisions to the Final-Form Regulation

(a) Final-Form Regulation and the Commission's Objections

The Department's final-form implemented and clarified the complaint, investigation procedures, and administrative penalty assessment provisions of the act. It also required the Department to provide complainants notice of violations and appeals, and copies of Department determinations. And, it provided a simple letter procedure for complainants to intervene in any enforcement hearings.

In its Disapproval Order, the Commission concluded that the final-form regulation was consistent with the statutory authority of the Department and the intention of the General Assembly, but found the final form not in the public interest. The Commission expressed six concerns.

First, there was no requirement in the final-form regulation when the Department found no violation, that it include statements of the reason or applicable exception under

the act in its closing letter to the complainant. Second, section 225.3(f) of the final-form did not provide a statement of when the Department would commence investigation of a complaint. The Commission suggested in its Disapproval Order that the Department amend this subsection to clarify that an investigation would begin immediately upon the Department's review of the complaint. Third, there was concern about how the Department would implement the "good faith" factor in the calculation of penalties. The Commission suggested that the Department amend section 225.4(b) to include more detail on how the "good faith" factor will be implemented. Fourth, the Commission commented that the provisions for a party to intervene did not specifically include an employee's union representative. The Commission stated that the rulemaking would be improved if section 225.8(b)(1)(ii) specifically included an employee's union representative as a potential intervenor. Fifth, the Commission noted that the Department added a provision in the final-form to allow a complainant to intervene. The Commission questioned why the Department does not allow a complainant to opt-out of the process as a party rather than intervene. Finally, the Commission commented that the implied powers granted the Department by the act provide the mechanism to impose record keeping requirements in the regulation. The Commission asked the Department to consider adding such a provision to the final-form.

(b) Revised Final-Form Regulation in Response to the Commission's Objections

In response to the Commission's position regarding the final-form regulation, the Department now submits this revised final-form regulation which, as explained below, addresses the Commission's concerns.

First, the Department addressed the Commission's concern about complainant notification when an investigation is closed without a finding of a violation. The Department amended section 225.5(e) to include the requirement that the written notification will include a statement of the reason the investigation was closed without a finding of a violation.

Second, consistent with the Commission's suggestion, the Department amended section 225.3(f) to state that it will review and commence investigation of all complaints within 60 days of receipt.

Third, to address the Commission's concern about how the Department would implement a "broad" good faith factor in the calculation of penalties, the Department revised section 225.4(b)(3) by changing the good faith factor to a more "focused" factor of voluntary remedial efforts. Under this revised section the Department will consider voluntary remedial efforts made by the health care facility or employer to prevent future violations and comply with the act.

Fourth, in response to the Commission's concern that the provisions for a party to intervene did not specifically include an employee's union representative, the Department revised section 225.8(b)(1)(ii) to specifically list a complainant's union or trade association representative as a potential intervenor.

Fifth, the Department made no change in response to the Commission's question of why the Department does not allow a complainant to opt-out of the process as a party rather than require a complainant to intervene. As a general rule, where the legislature has intended that the complainant be a party in an enforcement statute, that intention is clearly expressed. In this statute, no such intention is stated. Moreover, it is noteworthy that enforcement actions under the act and this regulation generally would not result in any direct pecuniary or other benefit to the complainant. Rather, these enforcement actions would result in corrective orders and fines to the health care facility or employer that are payable to the Commonwealth. For these reasons, it is the Department's position that section 225.8(c) and the parties to enforcement proceedings should remain unchanged.

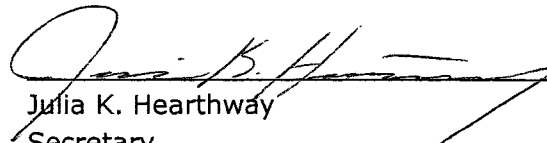
Finally, the Commission requested that the Department to consider adding including record-keeping requirements in the final-form regulation. The Department added subsection 225.3(g), requiring health care facilities and employers to establish a record keeping system and retain records for a period of three years.

#### Conclusion

Upon review of the concerns raised in the Commission's Disapproval Order, the Department has amended the final-form regulation to address most of these concerns. The revised final-form regulation is consistent with the Prohibition of Excessive Overtime in Health Care Act and reasonable. Therefore, the Department respectfully requests that the Commission approve the revised final-form regulation.

As required by 1 Pa. Code §311.4, the revised final-form regulation, the Commission's Disapproval Order, and a signed transmittal sheet are attached to this Report.

Date: April 28, 2014



Julia K. Hearthway  
Secretary  
Commonwealth of Pennsylvania  
Department of Labor and Industry  
651 Boas Street  
Harrisburg, PA 17121

**TITLE 34. LABOR AND INDUSTRY**

**PART XII. BUREAU OF LABOR LAW COMPLIANCE**

**CHAPTER 225. PROHIBITION OF EXCESSIVE OVERTIME IN  
HEALTH CARE ACT REGULATIONS**

- 225.1 Purpose and scope.
- 225.2 Definitions
- 225.3 Complaint and investigation procedure.
- 225.4 Administrative penalties.
- 225.5 Administrative notice of violation and proposed penalty.
- 225.6 Contesting an administrative decision and proposed penalty.
- 225.7 Hearing.
- 225.8 Petition to intervene.
- 225.9 Adjudications.
- 225.10 Further appeal rights.

**§ 225.1. Purpose and scope.**

The purpose of this chapter is to implement the Act's complaint and investigation procedures, and administrative penalties assessment provisions in the act.

**§ 225. 2. Definitions.**

(a) Terms used in this chapter shall have the same meaning and be defined in the same manner as the act.

(b) In addition to the provisions of subsection (a), the following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

*Act* - The Prohibition of Excessive Overtime in Health Care Act (43 P.S. §§ 932.1-932.6).

*Bureau* - The Bureau of Labor Law Compliance or its successor bureau within the Department assigned enforcement of the act.

*Department* - The Department of Labor and Industry of the Commonwealth.

*Employee-*

(i) An individual employed by a health care facility or by the Commonwealth or a political subdivision or instrumentality of the Commonwealth who is involved in direct patient care activities or clinical care services and who receives an hourly wage or is classified as a nonsupervisory employee for collective bargaining purposes.

(ii) The term includes an individual employed through a personnel agency that contracts with a health care facility to provide personnel.

(iii) The term does not include a physician, physician assistant, dentist or worker involved in environmental services, clerical, maintenance, food service or other job classification not involved in direct patient care and clinical care services.

*Employer* – A health care facility defined in section 2 of the Act (43 P.S. § 932.2) or the Commonwealth, a political subdivision or an instrumentality of the Commonwealth engaged in direct patient care activities or clinically-related health services.

*Health Care Facility* –

(i) A facility which provides clinically related health services, regardless of whether the operation is for profit or nonprofit and regardless of whether operation is by the private sector or by State or local government.

(ii) The term includes all of the following:

(A) A general or special hospital, a psychiatric hospital, a rehabilitation hospital, a hospice, an ambulatory surgical facility, a long-term care nursing facility, a cancer treatment center using radiation therapy on an ambulatory basis and an inpatient drug and alcohol treatment facility.

(B) A facility which provides clinically related health services and which is operated by the Department of Corrections, the Department of Health, the Department of Military and Veterans Affairs or the Department of Public Welfare.

(C) A mental retardation facility operated by the Department of Public Welfare.

(iii) The term does not include any of the following:

(A) An office used primarily for private or group practice by a health care practitioner.

(B) A facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of a church or a religious denomination.

(C) A facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other individuals in a religious profession who are members of the religious denomination conducting the facility.

*Secretary*- The Secretary of the Department or the Secretary's designee.

*Violation*- Each discrete time that a health care facility or employer does not comply with the Act.

*Witness*- A person with personal knowledge of an alleged violation of the Act.

### **§ 225.3. Complaint and investigation procedure.**

(a) Upon receipt of a complaint or upon its own initiative, the Bureau will investigate alleged violations of the act.

(b) An aggrieved employee who believes there is a violation of this act against him by a health care facility or employer may file a complaint, within 60 days of the violation, with the [Department] Bureau.

(c) The complaint shall be in writing, signed and shall set forth the grounds for the complaint. A complaint must contain:

(1) The name and address of complainant.

(2) The name and address of the employer against whom the complaint is filed.

(3) A statement of the facts forming the basis of the complaint or conclusion that there has been [a] one or more violations of the act including the date, time and place of the alleged violation. A complaint may contain multiple violations.

(4) The name of known witnesses.

(5) Other information that may be pertinent to an investigation.

(d) The Bureau will prepare complaint forms that will be available on the Department's website www.dli.state.pa.us. The forms will be available in English and in Spanish.

(e) The Bureau will accept complaints that are not placed on the complaint form.

(f) The Bureau will record the date of receipt on all complaints. The Bureau will review AND COMMENCE INVESTIGATION OF all complaints within 60 days of receipt. If a complaint does not provide all of the information required by subsection (c), the Bureau shall advise the complainant in writing of the procedures necessary to comply with subsection (c) and will allow the party [15] 30 days from the date of the Bureau's letter to provide the required missing information. If the party fails to provide information fully conforming to the requirements of subsection (c), the Bureau may dismiss the complaint and will notify the complainant in writing of the dismissal. The Bureau's written notification will include a statement of the basis for the Bureau's dismissal.

**(g) ALL HEALTH CARE FACILITIES AND EMPLOYERS SHALL ESTABLISH A SYSTEM FOR KEEPING RECORDS OF CIRCUMSTANCES WHERE EMPLOYEES ARE REQUIRED TO WORK IN EXCESS OF AN AGREED TO, PREDETERMINED AND REGULARLY SCHEDULED DAILY WORK SHIFT, OR IN EXCESS OF 40 HOURS PER WEEK. THESE RECORDS SHALL BE KEPT FOR A PERIOD OF THREE YEARS.**

#### **§ 225.4. Administrative penalties.**

(a) The Department may impose any and all of the following penalties under section 6 of the act (43 P.S. § 932.6):

(1) A fine of \$100 to \$1,000 per violation. [A violation is comprised of each discrete time that a health care facility or employer does not comply with the Act and this chapter.]

(2) Order a health care facility or employer to take an action which the Department deems necessary to correct a violation of section 3 of the act (43 P.S. § 932.3) or this chapter. Actions ordered may include payment of restitution to employees, directives for compliance with the act such as changes to policy and procedures to ensure future compliance, and [and non-retaliation orders] directives to remedy unlawful adverse employment decisions as prohibited under the Act at 43 P.S. § 932.3(b). An order must be based on the facts of each individual complaint and practices of the health care facility and employer.

(b) The Department may base administrative penalties on the following factors:

(1) Size of business. The Department will take into consideration the number of employees of the health care facility or employer on the date the violation occurred at the site where the alleged violation occurred.

(2) History of previous violations. The Department will take into consideration the number of assessed violations for the health care facility or employer in a preceding [12] 36 month period. Only violations for which penalties were assessed and which are not subject to further appeal will be included.

~~(3) Good Faith of health care facility or employer. The Department will take into consideration the health care facility's good faith attempts to abate the violation at issue in the complaint and any attempts the facility has made to abate future violations.~~ **REMEDIAL EFFORTS. THE DEPARTMENT WILL CONSIDER VOLUNTARY REMEDIAL EFFORTS DESIGNED TO PREVENT FUTURE VIOLATIONS AND REINFORCE THE IMPORTANCE OF COMPLIANCE WITH THE ACT.**

(4) Degree of cooperation. The Department will also consider an employer's lack of cooperation with an investigation, an employer's failure to provide requested information and any action which would constitute a lack of effort to abate a violation or violations such as retaliation.

~~(5) Length of mandated overtime. The Department will take into consideration the length of the mandated overtime and other factors concerning the severity of the violation.~~

#### **§ 225.5. Administrative notice of violation and proposed penalty.**

(a) After the completion of an investigation on an alleged violation of the act and upon finding that the act has been violated, the Bureau will issue an administrative decision containing findings and proposed penalties.

(b) The Bureau will serve by first class mail upon the violating health care facility or employer and the complainant a copy of its administrative decision and proposed penalty.

(c) A health care facility or employer served with an administrative decision and proposed penalty may accept the notice and pay the penalty, request a reduction in penalty or contest the administrative decision and proposed penalty pursuant to § 225.6 (relating to contesting an administrative decision and proposed penalty).

(d) A request for a reduction in the penalty shall be made in writing to the Bureau within 10 days of the mailing date of the administrative decision and shall propose an alternative penalty for Bureau's consideration setting forth mitigating circumstances. The Bureau will expeditiously act on the request for reduction of penalty within 10 days of receipt. The filing of a request for reduction does not toll or extend the 30-day period for requesting a hearing under § 225.6. The Bureau will provide notice of the request for reduction in penalty to the complainant.

(e) After the completion of an investigation of alleged violations of the act and upon no findings that the act has been violated, the Bureau will provide written notice to the complainant and the health care facility or employer that the investigation has been closed. **THE WRITTEN NOTICE WHERE NO VIOLATION IS FOUND WILL INCLUDE A STATEMENT OF THE REASON.**

#### **§ 225.6. Contesting an administrative decision and proposed penalty.**

(a) A health care facility or employer may contest an adverse administrative decision by requesting a hearing.

(b) The health care facility or employer contesting the administrative decision shall file an original and two copies of a written request for a hearing with the Bureau within 30 days of the mailing date of the administrative decision. The hearing request shall be mailed to the Bureau at the address listed on the administrative decision.

(c) The Bureau will notify the complainant of any request made for hearing under this section.

(d) An untimely request for a hearing may be dismissed without further action by the Bureau.

(e) Filing of a request for a hearing shall act as a supersedeas of the administrative decision on the violation and proposed penalties.

#### **§ 225.7. Hearing.**

(a) The Secretary will assign the request for a hearing to a hearing officer who will schedule a de novo proceeding. The parties and the complainant will receive [reasonable] written notice of the hearing date, time and place by first class mail at least 30 days prior to the scheduled date of the hearing, unless another method of notification is requested.

(b) The hearing will be conducted in a manner to provide all parties the opportunity to be heard. The hearing officer will not be bound by strict rules of evidence. Relevant evidence of reasonably probative value may be received into evidence. Reasonable examination and cross-examination of witnesses will be permitted.

(c) The parties may be represented by legal counsel, but legal representation at the hearing is not required.

(d) Testimony will be recorded and a full record kept of the proceeding.



(e) The parties will be provided the opportunity to submit briefs addressing issues raised at the hearing.

(f) The Bureau and the health care facility or employer shall be the parties at the hearing.

(g) The Bureau shall have the burden of proving by a preponderance of the evidence that the health care facility violated the Act and that the proposed penalty is appropriate under the factors listed in section 225.4(b) (relating to administrative penalties).

(h) To the extent not covered by this chapter, hearings shall be governed by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

### **§ 225.8. Petition to intervene.**

(a) The Bureau and the health care facility or employer shall be the parties at the hearing.

(b) A person other than the Bureau and the health care facility or employer may request to intervene in a hearing under the following conditions:

(1) He or she can demonstrate any of the following:

(i) A right conferred by law.

(ii) An interest which may be so directly affected and [that] which is not adequately represented by the existing parties, and as to which petitioners may be bound by the Department's actions [and its interest is not adequately represented by existing parties in the hearing]. The following may have an interest: **COMPLAINANTS' UNION OR TRADE ASSOCIATION REPRESENTATIVES**; consumers, patients or other patrons served by the respondent; holders of securities of the healthcare facility or employer; employees of the healthcare facility or employer; competitors of the respondent.

(iii) Any other interest of such nature that participation of the petitioner may be in the public interest.

(2) The party files a petition to intervene with the [presiding] hearing officer and the existing parties in the hearing under 1 Pa. Code § 35.29 (relating to form and contents of petition to intervene) no later than [30]10 days before the scheduled hearing unless the party shows good cause and there is no prejudice to the existing parties from the late filing. Existing parties may file an answer under 1 Pa. Code § 35.36 (relating to answers to petitions to intervene) within 20 days or other time set by the hearing officer.

(c) The complainant will have the right to intervene by sending a letter or notice to the hearing officer, the bureau and the health care facility or employer no later than 10 days before the scheduled hearing. The complainant will not be required to demonstrate his basis for intervention as required by subsection (b).

(d) As soon as possible after the time set for filing of answers, the hearing officer will rule on the petition and may grant or deny intervention in whole or in part, or may limit the intervenor's participation in the hearing. The hearing officer may tentatively grant intervention before the hearing only to avoid detriment to the public interest and if the hearing officer issues a final ruling on intervention before the hearing commences.

[d] (e) A hearing officer may not grant a petition to intervene during a hearing unless good cause is shown for the late filing, all parties have the opportunity to respond or object, and the petition complies with this section.

#### **§ 225.9. Adjudications.**

(a) The Secretary will issue a written adjudication. The adjudication will include all relevant findings and conclusions, and the rationale for the adjudication.

(b) The adjudication will include a notification to all parties of appeal rights to Commonwealth Court.

(c) The adjudication will be served upon all parties, complainants, intervenors and counsel of record.

#### **§ 225.10. Further appeal rights.**

A party, including an intervenor, aggrieved by an adjudication rendered pursuant to § 225.9 (relating to adjudications) may file an appeal to Commonwealth Court within 30 days from mailing of the decision as prescribed by law or rule of court. A direct appeal from an agency adjudication to Commonwealth Court is provided by statute at 42 Pa.C.S.A. §763.

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held February 27, 2014

John F. Mizner, Esq., Chairman  
George D. Bedwick, Vice Chairman  
W. Russell Faber  
Lawrence J. Tabas, Esq.  
Dennis A. Watson, Esq.

Order Issued March 17, 2014  
Regulation No. 12-91 (#2957)  
Department of Labor and Industry  
Prohibition of Excessive Overtime in Health  
Care Act Regulations

On June 26, 2012, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code by adding Chapter 225. The proposed regulation was published in the July 14, 2012 *Pennsylvania Bulletin* with a 30-day public comment period. On September 12, 2012, the Commission issued its comments on the proposed rulemaking pursuant to Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) (RRA). The final-form regulation was submitted to the Commission on January 16, 2014.

This regulation establishes complaint and investigation procedures as well as administrative penalty provisions related to violations of the Prohibition of Excessive Overtime in Health Care Act (Act) (43 P.S. §§ 932.1 - 932.6). We find that this regulation is not in the public interest because it may impede or could serve as a deterrent to employees who may want to pursue an action against an employer. (71 P.S. § 745.5b(b).) In support of this finding, the following points are noted.

First, the Commission's second comment on the proposed regulation raised the following legislative concern: "Determinations where no violation is found should include statements of the reason or the applicable exception under the Act." The Department's response to this comment notes that such a requirement would curtail its administrative discretion. However, the Department states that its general practice is to provide, when possible, an explanation as to why no violation was found in its closing letter to the complainant. While we commend the Department for its intent to provide explanations, when possible, we believe a more reasonable approach would be to provide an explanation in all instances where no violations are found. Including such a requirement in this regulation would provide complainants and the regulated community with the basis for the Department's determination and ensure that the general practice of providing explanations where no violations are found continues into the future. (71 P.S. § 745.5b(b)(3)(iv).)

Second, the Commission's comments on § 225.3(f) recommended that the Department include the timeframe for the Bureau to conduct an initial review to assess whether the complaint meets the requirements of § 225.3(c). In response to this comment, the Department added language to Subsection (f) that states, "The Bureau will review all complaints within 60 days of receipt." In addition, the Commission's comments on § 225.3(b) state that "Subsection (b) does not include timeframes within which the Bureau will investigate complaints. The Department

should explain why such timeframes are not set forth in the regulation.” At the public meeting, the Department stated that it begins its investigation immediately upon completion of its review of the complaint. To improve the clarity of § 225.3(f), we suggest that the new language be amended to state the Bureau will “review and commence investigation” of all complaints within 60 days of receipt. (71 P.S. § 745.5b(b)(3)(ii).)

Third, the Commission’s sixth comment on the proposed rulemaking asked the Department to explain why the factors included in § 225.4(b) are an appropriate basis for imposing penalties. The Department’s response indicates that the factors were based on its experience with administering penalties under the Pennsylvania Community and Worker Right-to-Know Act (35 P.S. §§ 7301 - 7320) and similar factors used in issuing administrative penalties found at 34 Pa. Code § 321.4. As noted during the public meeting, there is concern with how the Department will implement the “good faith” factor of § 225.4(b). The “good faith” factor found at § 321.4 sets forth very specific standards the Department can use to calculate penalties. This level of detail establishes a binding norm that could be evenly applied to all parties involved with a complaint at this time and in the future. We recommend that the Department amend § 225.4(b)(3) to include more detail on how the “good faith” factor will be implemented. (71 P.S. § 745.5b(b)(3)(iv).)

Fourth, the Commission’s second comment notes that the regulation does not address several items, including the inclusion of an employee’s representative throughout the complaint and enforcement process. We note that § 225.8(b)(1)(ii) lists several parties as potential intervenors in a hearing, but the list does not specifically include an employee’s union representative. At the meeting, the Department explained the Commonwealth’s General Rules of Administrative Practice and Procedure (1 Pa. Code, Part II) allow for union representation and such a representative would be allowed to intervene. We believe the clarity of the rulemaking would be improved if § 225.8(b)(1)(ii) specifically included an employee’s union representative as a potential intervenor. (71 P.S. § 745.5b(b)(3)(ii).)

Fifth, the Department added § 225.8(c) to the final-form regulation to provide a complainant with the right to file a petition to intervene. At the public meeting, we asked why the complainant had to file a petition rather than just being made a party at the outset, particularly since it is likely that the complainant will be at the hearing as a witness. We further asked why the regulation did not allow the complainant to opt out of the process rather than take the affirmative step to opt in. Many complainants who do not have legal representation may not fully appreciate the significance of the intervention process and requiring this additional step could serve as a disincentive to their participation. We ask the Department to consider amending the language to remove this potential barrier for complainants.

Finally, we note that our second comment incorporated legislative comments that asked the Department if it would benefit from addressing certain items pertaining to the enforcement of the Act and these regulations. Among the items noted in the legislative comments was a question of whether there is a need to include investigative powers and rights to review employer records in the regulation. In the comment and response document submitted with the final-form rulemaking, the Department notes that the Act does not contain record-keeping requirements, but states that without such requirements, it would have implied authority to inspect records. In

order to assist the Department with the implementation of the Act and its review of employer records, we believe a record-keeping requirement could be added to the regulation. We are aware that other statutes administered by the Department include specific record-keeping requirements and the Act does not include similar provisions. However, we believe the implied powers noted in the comment and response document and the rulemaking authority granted to the Department by the Act (43 P.S. § 932.5) provide the mechanism to impose record-keeping requirements in the regulation. We ask the Department to consider adding such a provision to the rulemaking. (71 P.S. § 745.5b(3)(iv).)

We have determined that this regulation is consistent with the statutory authority of the Department (43 P.S. § 932.5) and the intention of the General Assembly. However, after considering all of the other criteria of the RRA discussed above, we find that promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



*George D. Bedwick*  
George D. Bedwick, Vice Chairman



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF LABOR & INDUSTRY  
HARRISBURG, PENNSYLVANIA 17121

THE SECRETARY

April 28, 2014

The Honorable John F. Mizner  
Chairman, Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

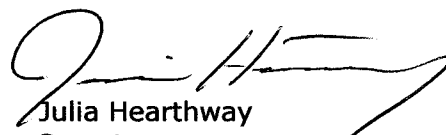
**Re: Revised Final-Form Rulemaking  
Title 34 Labor & Industry  
Part XII, Bureau of Labor Law Compliance  
Chapter 225, Prohibition of Excessive Overtime  
in Health Care Act Regulations  
Document No. 12-91**

Dear Chairman Mizner:

Enclosed is a revised final-form rulemaking consisting of a report to the Independent Regulatory Review Commission (Commission), the text of the revised final-form regulation and a copy of the Commission's disapproval order. This revised rulemaking responds to the objections raised by the Commission in its disapproval order.

Questions should be directed to Karen Galli, Deputy Chief Counsel, 10<sup>th</sup> Floor, Labor and Industry Building, 651 Boas Street, Harrisburg, PA 17121; Telephone: (717) 787-4186; Fax: (717) 783-5027. The email address is: [kgalli@pa.gov](mailto:kgalli@pa.gov).

Sincerely,

  
Julia Hearthway  
Secretary

cc w/encl: Thomas Zipfel, Chief Counsel  
J. Scott Robinette, Deputy Secretary for Safety and Labor-Management Relations  
David Greineder, Director of Legislative Affairs  
Eric Kratz, Policy Director  
Karen Galli, Deputy Chief Counsel  
Richard Lengler, Deputy Chief Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 12-91  
**SUBJECT:** PROHIBITION OF EXCESSIVE OVERTIME IN HEALTH CARE ACT  
**AGENCY:** DEPARTMENT OF LABOR & INDUSTRY

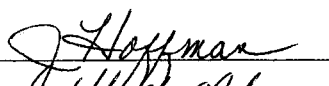

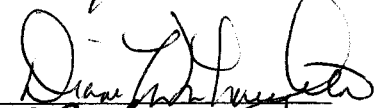
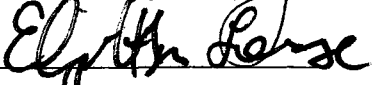

**TYPE OF REGULATION**

- Proposed Regulation
- X Final Regulation (Resubmitted with revisions)
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

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**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON LABOR &amp; INDUSTRY</i>
4/28/14		MAJORITY CHAIR <u>Mario M. Scavello</u>
4-28-14		MINORITY CHAIR <u>William F. Keller</u>
		<i>SENATE COMMITTEE ON LABOR &amp; INDUSTRY</i>
4/28/14		MAJORITY CHAIR <u>Lisa J. Baker</u> <del>John R. Gardner</del>
4/28/14		MINORITY CHAIR <u>Christine M. Tartaglione</u>
4/28/14		
		<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
		<i>ATTORNEY GENERAL (for Final Omitted only)</i>
		<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>