

August 14, 2019

#### IHA Summary: Chicago Fair Workweek Ordinance Key Requirements

On July 24, the Chicago City Council voted 50-0 to approve the "Fair Workweek" Ordinance ([SO2019-3928](#)). This memo provides a brief summary of the key requirements of the ordinance, as well as an overview of the major compromises and concessions that IHA worked aggressively to secure in intense discussions and negotiations with the Mayor's Office, City Council and organized labor over the past few weeks and months.

We greatly appreciate the valuable input and feedback of members that helped guide us in the negotiations and the outstanding response of members who reached out to their Aldermen many times to address the hospital community's issues and concerns.

We will now be focusing on working with the Mayor's team on the rules process and the implementation of the ordinance to make sure that hospital operations are not compromised. We will also be providing further information and assistance to members in the coming months on complying with the ordinance.

#### Key Requirements/Provisions of Fair Workweek Ordinance

##### *Covered Employees*

- Hourly employees earning less than or equal to \$26 per hour
- Salaried employees earning less than or equal to \$50,000 per year

##### *Advanced Notice of Work Schedules*

- At least 10 days advance notice, beginning July 1, 2020
- At least 14 days advance notice, beginning July 1, 2022
- Employers must provide written notice of work hours by posting the Work Schedule within the unit or department or workgroup either in a conspicuous place at the workplace that is readily accessible and visible to all Covered Employees or using the usual methods of communication, or both. Additionally, upon a Covered Employee's request, Employers must provide the notice electronically.

##### *Employee Right to Rest/Right to Decline*

- Covered Employee has the right to decline Work Schedule hours that are less than 10 hours after the end of the previous day's shift
- When a Covered Employee works a shift that begins less than 10 hours after the end of the previous day's shift, the Employer shall pay the Covered Employee at a rate of 1.25 times the employees' regular rate of pay for that shift
- A Covered Employee has the right to decline any previously unscheduled hours that the Employer adds to the employee's schedule and for which the employee has not been given advance notice (10 days' notice until 2022, and 14 days' notice thereafter)

##### *Offer of Additional Work Hours to Existing Employees*

- When an Employer needs to fill additional shifts of work, the Employer must first offer additional shifts to existing Covered Employees if the Employees are qualified to do the additional work, as determined by the Employer
- If offered shifts are not accepted by Covered Employees, the shifts must be offered to temporary or seasonal workers who have worked on behalf of the Employer for two or more weeks

#### *Predictability Pay/Penalties*

- One hour pay for each shift that the Employer adds hours, changes the date/time of a shift or cancels/subtracts hours with MORE THAN 24 hours' notice
- 50% of an employee's regular rate of pay for any hours not worked because the employer changes, cancels or subtracts hours from a regularly scheduled shift with LESS THAN 24 hours' notice

#### *Exceptions to Work Schedule Change Requirements Include*

- A work schedule change that is the result of a mutually agreed upon shift trade or coverage arrangement between Covered Employees, subject to any existing Employer policy regarding required conditions for Covered Employees to exchange shifts
- A work schedule change that is mutually agreed to by the Covered Employee and Employer and is confirmed in writing
- Acts of nature, including, but not limited to, flood, earthquake, tornado or blizzard
- War, civil unrest, strikes, threats to public safety or pandemics

#### *Special Exceptions to Work Schedule Change Requirements for Healthcare Employers*

- Any declared national, state or municipal disaster or other catastrophic event, or any implementation of an Employer's disaster plan, or incident causing a hospital to activate its Emergency Operations Plan, that will substantially affect or increase the need for healthcare services
- Any circumstance in which patient care needs require specialized skills through the completion of a procedure
- Any unexpected substantial increase in demand for healthcare due to large public events, severe weather, violence or other circumstances beyond the Employer's control

#### *Effective Date of Ordinance*

- July 1, 2020
- Safety Net Hospitals must comply as of January 1, 2021

#### Key Compromises/Concessions Secured by IHA

While IHA and the hospital community communicated serious concerns about ordinance as originally introduced and its potential negative impact on patients, hospital clinical operations, and access to care, Mayor Lightfoot made it very clear, in meetings with IHA and hospitals as well as in the media, that she intended to enact the ordinance and was absolutely committed to including healthcare employees among the Covered Employees. Given this context, and the very challenging political environment, IHA worked to achieve the best deal possible to ensure that hospitals maintain the ability to flex their clinical staff to address unpredictable, unplanned healthcare needs. Key provisions secured by IHA include:

- Narrowing the definition of "covered" employees to employees earning less than or equal to \$26 an hour as an hourly employee, or less than or equal to \$50,000 per year as a salaried employee, with such amount being updated annually by the CPI. The originally introduced ordinance would have covered ALL hourly employees, including nurses. The final agreed upon thresholds will enable hospitals to maintain flexibility with their key professional staff, including nurses;
- Allowing the employer and its employees to mutually agree on schedule changes that are confirmed in writing, including the voluntary addition of hours and shifts;
- Expanding the list of emergent circumstances beyond a hospital's control that qualify as an exception to the predictability pay requirements;

- Requirement to offer additional hours to existing covered employees before hiring new employees is deleted and the issue of the impact on part-time employees will be studied;
  - Private Right of Action is changed so that Employer first has the opportunity to work through the City to defend its action or cure an alleged violation before an employee may pursue litigation; and
  - Six-month delayed effective date for Safety Net Hospitals – until January 1, 2021.
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