



Fact Sheet #52 – The Health Care Industry and Youth Employment

The Fair Labor Standards Act (FLSA) requires covered employers to pay employees at least the federal minimum wage of \$5.15 per hour for all hours worked and overtime pay for hours worked over 40 in a workweek. The FLSA also set standards under which youth under the age of 18 may be employed. The FLSA is administered by the Wage and Hour Division of the U.S. Department of Labor.

Hospitals and other institutions “primarily engaged in the care of the sick, the aged, or the mentally ill” are covered employers under Section 3(s)(1)(B) of the FLSA. Thus, hospitals, residential care establishments, skilled nursing facilities, nursing facilities, assisted living facilities, residential care facilities and intermediate care facilities for mental retardation and developmentally disabled must comply with the minimum wage, overtime and youth employment requirements of the FLSA.

Summary

This fact sheet provides guidance regarding common youth employment violations found by the Wage and Hour Division during investigations in the health care industry. Most violations of the FLSA’s youth employment provisions in the long-term care industry occur in the dietary departments. Minors must be at least 14 years old to be employed in non-agricultural workplaces. There are limitations on the number of hours and times of day that 14- and 15-year-olds may work as well as the types of jobs they may perform. The FLSA does not restrict the hours that minors 16 years of age or older may work. However, minors aged 16 and 17 may not perform tasks that are deemed too hazardous for them to perform.

Hours of Work for 14- and 15-Year-Olds

The federal youth employment provisions require that when 14- and 15-year-olds work, they must be employed:

- Outside school hours
- Not more than 40 hours during non-school weeks
- Not more than 18 hours per week when school is in session
- Not more than eight hours in any one day when school is not in session
- Not more than three hours in any one day when school is in session
- Between 7 a.m. and 7 p.m. except during the summer (June 1 through Labor Day) when the evening hours are extended to 9 p.m.

Example:

At an assisted living facility, the chef’s 15-year-old son works in the dietary department from 4 a.m. to 7 p.m. Occasionally he helps clean up with his father’s shift and works until 8 p.m. Is this allowed under Federal regulations? No. Fourteen- and 15-year-olds may not work outside the hours standards even if working with a parent or guardian. A young worker would be exempt from the hours standards only if he or she were employed in a business solely owned and operated by the parents.

Example:

May a 15-year-old begin working at 6 a.m. during the summer or on a weekend? No, 14- and 15-year-olds may not work before 7 a.m. or after 7 p.m. except from June 1 through Labor Day when the evening hours are extended to 9 p.m.

Job Restrictions for 14- and 15-Year-Olds

Youth 14- and 15-years of age may perform a variety of jobs such as office work; sales work; run errands and make deliveries by foot, bicycle and public transportation. They may also perform a variety of food service jobs, including waiting on tables, bussing tables, washing dishes, and preparing salads and other food. Cooking is prohibited for 14- and 15-year-olds except at soda fountains, lunch counters, snack bars, or cafeteria service counters. Fourteen- and 15-year-olds also may not operate or tend most power-driven machinery or work in any occupation declared hazardous by the Secretary of Labor.

Example:

A 14-year-old works as a dishwasher in the kitchen at a residential care facility. Sometimes she is called upon to do some cooking when the cook is doing inventory. Is this in accordance with the youth employment laws? No. The kitchen area in a residential facility would not equate to a soda fountains, lunch counters, snack bars, or cafeteria service counters, so the 14-year-old cannot fill in for the cook.

Example:

A 15-year-old helps out at a residential care facility on weekends. She mows the lawn and trims the bushes using a gas-powered lawn mower and electric clippers. Is this permissible? No. Fourteen- and 15-year-olds cannot operate power driven machinery other than office machines.

Example:

A 14- year-old works in the dietary department at a skilled nursing facility. When there are snowstorms, he helps out with snow blowing and snow shoveling. Is this allowed? No, the youth is too young to legally operate a snow blower on the job. Snow shoveling, however, would be allowed.

Hazardous Occupation Orders

Seventeen (17) hazardous non-farm jobs are out of bounds for youth under the age of 18. In the health care industry, the most common hazardous occupations violations occur in food service jobs. Hazardous Order No. 10 prohibits minors under age 18 from operating, cleaning, disassembling and reassembling power-driven meat processing machines. Hazardous Order No. 11 prohibits minors under 18 from setting up, operating, assisting others to operate, cleaning, oiling, adjusting or repairing power driven bakery machines. This includes horizontal and vertical dough mixers; batter mixers; bread dividing, rounding or molding machines; dough breaks; dough sheeters; cookie and cracker machines; and cake cutting band saws.

Example:

A food service director at an assisted living facility has 17-year-olds working in the kitchen. The director prohibits them from operating the power driven meat slicing machine. They are, however, allowed to dismantle, clean the parts and reassemble the parts. Does this comply with the FLSA? No, youth under age 18 may only hand wash individual parts.

Example:

A facility for mental retardation and the developmentally disabled employs workers to bake breads and rolls. This requires the operation of power driven dough mixers. The 16- and 17-year-olds operate these machines. Does this violate the FLSA? Yes.

Additional Information

For more information regarding the FLSA youth employment provisions, including a complete list of all hazardous order occupations, visit the **YouthRules!** web site at www.youthrules.dol.gov.

For more information regarding the Fair Labor Standards Act, visit the Wage and Hour Division web site at www.wagehour.dol.gov or call our toll-free help line, available 8 a.m. to 5 p.m. in your time zone, at 1-866-4US-WAGE (1-866-487-9243). The FLSA statute appears at 29 U.S.C. § 201 *et seq.* The federal regulations regarding hours worked appear in 29 C.F.R. Part 785.

When the state laws differ from the federal FLSA an employer must comply with the higher standard. Links to your state labor department can be found at www.dol.gov/esa/contacts/state_of.htm

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