

8 Tips to Help Health Care Providers Minimize Possible Wage Liability for Student Interns

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As good corporate citizens, medical facilities help educate the next generation of health care workers by permitting students hands-on training through clinicals or rotations. Nevertheless, some students claim this training is really "work" entitling them to minimum wage and overtime under the Fair Labor Standards Act. These eight tips come from factors courts consider in determining whether the facility has wage liability to the student. No single factor controls the outcome; this is a totality of the circumstances analysis.

- The students should receive the primary benefit of the clinical rotation. Generally, the rotation should give the student intern course credit toward graduation. Students should get hands-on experiences that they could not get in a traditional classroom setting. Having students should require facility employees to take time away from their job duties to teach and to fix the proverbial and actual messes that students create.
- It is important to supervise students. Is someone assigned to monitor student work? Is someone present any time students are on the premises? Is someone making sure the students are participating only in activities that further their education?
- Are there student syllabi? Does the facility review student syllabi ahead of, and during, the rotation to make sure the facility can, and does, provide appropriate learning opportunities? Students generally should not assist in departments—or on tasks—unrelated to their area of study.
- Evaluations should be 360 degrees. Preceptors should evaluate student performance (daily if that makes sense), and students should evaluate preceptors. Preceptors should give specifics about a student's strengths and weaknesses and let the students know where they can improve. Don't be shy—constructive criticism is part of teaching. Ask the students if they have questions and provide guidance. Ask them to detail their daily duties, what they learned each day from those duties, and how the preceptor assisted in that process.
- Employee staffing levels should not decrease when students are present. Don't send staff members home and let students fill in—it can make students look like they are performing paid work. Don't accept student interns as an extra set of hands; get the work done, within the allotted budget, another way.
- Do not suggest that a good rotation can lead to a permanent job, and do not promise students a job at the conclusion of the rotation. Make job offers only after a student concludes her rotation, and then only sparingly. The facility should not view the clinical rotation as a job interview, but as part of being a good corporate citizen by educating tomorrow's health care providers.
- Both orally and in writing, expressly convey to students before the commencement of the rotation that they will not be paid for the training they will receive at the facility.
- If the rotation is offered through an affiliation agreement with a school, get an indemnification agreement from the school that covers any later wage claims against the facility by students.