

FLSA-405

April 25, 1983

This is in reply to your letter of April 7, 1983, concerning whether a certified perfusionist may be classified as an exempt professional employee under section 13(a)(1) of the Fair Labor Standards Act (FLSA) and Regulations, 29 CFR Part 541.

According to the position description you enclosed, the perfusionist is responsible for set-up and operation of equipment for open heart surgery. The perfusionist prepares and operates ancillary equipment during surgery and administers blood, drugs, or fluids to achieve a safe bypass. In addition, (s)he makes calculations of certain physiological parameters as directed, and prepares cost analyses for the establishment of charges. Duties and responsibilities include such tasks as inserting catheters, establishing arterial lines, and obtaining blood samples and analyzing for gases and electrolytes. The minimum educational requirement for a perfusionist is a high school education and two years specialized training in perfusion technology.

Section 13(a)(1) of the Act provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity as those terms are defined in Regulations, Part 541, a copy of which is enclosed. An employee will qualify for exemption as a bona fide professional employee if all the pertinent tests relating to duties responsibilities, and salary, as discussed in section 541.3 of the regulations, are met. On such test, as set out in section 541.3(a)(1), requires that such an employee perform work which requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

A "prolonged course of...study" has generally been held to include only those employees who have acquired at least a baccalaureate degree or its equivalent which includes a longer intellectual discipline in a particular course of study as opposed to a general academic course otherwise required for a baccalaureate degree. Under section 541.302, a learned profession is generally recognized as one which combines a breadth of intellectual knowledge in related fields with specialized technical knowledge in a chosen field.

It is clear that the kind of instruction and training required does not meet the prolonged course of specialized intellectual instruction and study test of the regulations. Although the certified perfusionist may be a highly-skilled medical technician, it is our opinion that (s)he would not qualify for exemption as a professional employee under section 541.3 of the regulations. Thus, such employee(s) would have to be paid in accordance with the Act's minimum wage and overtime pay provisions.

We trust that the above is responsive to your inquiry. Please let us know if you have further questions.

Sincerely,

William M. Otter
Administrator

Enclosure