

JUL 27 1995

Dear

This is in response to your letter to Secretary Reich concerning the hours medical interns are required to work.

The Wage and Hour Division of the Department of Labor administers and enforces the Fair Labor Standards Act (FLSA), which is the Federal law of most general application concerning wages and hours of work. This law requires that all covered and nonexempt employees must be paid a minimum wage of \$4.25 an hour and not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek. The FLSA is discussed in more detail in the enclosed "Handy Reference Guide to the Fair Labor Standards Act."

Although the FLSA provides many beneficial labor standards, it does not set a minimum or a maximum number of hours in a day or in a week that an adult employee may be required to work, nor does it regulate work schedules or employers' utilization of their workforce.

Section 13(a)(1) of the FLSA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, professional, or outside sales capacity. In order to qualify for exemption under this section, an employee must meet all of the tests relating to duties, responsibilities, and salary that are contained in the appropriate section of Regulations, 29 CFR Part 541 (copy enclosed). Physicians, generally, qualify for exemption as bona fide professional employees.

Please note that section 541.314 of the Regulations provides that physicians and other practitioners, whether or not licensed to practice prior to commencement, are excepted from the salary or fee requirement during their internship or resident program, where such a training program is entered upon after the earning of the appropriate degree required for the general practice of their profession. This means that the compensation received by a physician during his or her internship is a matter between the physician and the hospital where he or she is in internship. We are not aware of any legislation that would address the matter of your concern.

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We trust that the above information is responsive to your inquiry.

Sincerely,

Daniel F. Sweeney  
Deputy Assistant Administrator

Enclosures