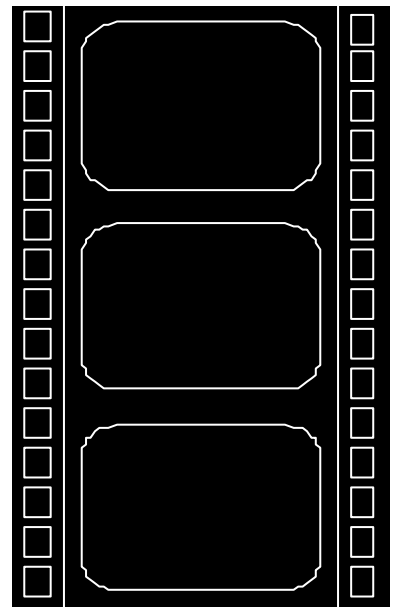
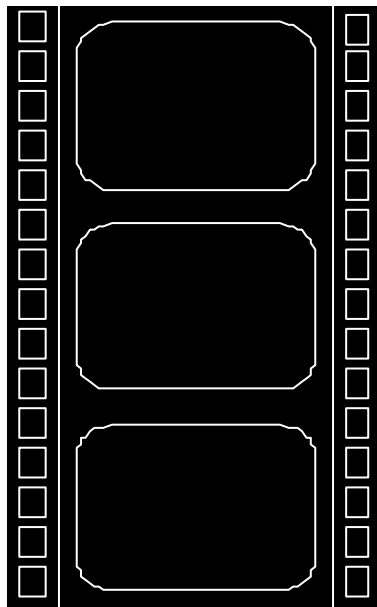
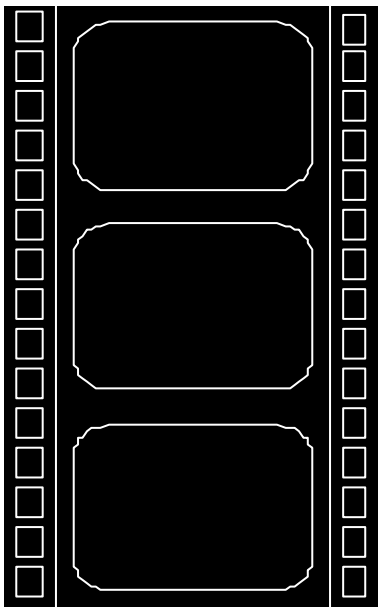
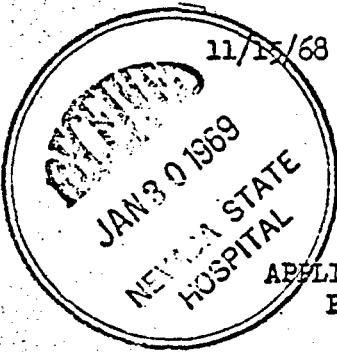


Miscellaneous Document 2: "Applicability of the Fair Labor Standards Act to Work Programs for Patients of Hospitals and Institutions Other Than Federal." In Archives files between 2/11/69 and 2/12/69 meetings



Ed Feenolas



G-874

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS
WASHINGTON, D. C. 20210

APPLICABILITY OF THE FAIR LABOR STANDARDS ACT TO WORK PROGRAMS FOR
PATIENTS OF HOSPITALS AND INSTITUTIONS OTHER THAN FEDERAL

Coverage

The 1966 Amendments to the Fair Labor Standards Act, effective February 1, 1967, provided for application of the act to hospitals and institutions primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such hospitals or institutions (regardless of whether or not they are public or private or operated for profit or not for profit). Workshops and other types of work programs operated by hospitals and institutions are considered to be within the coverage of the act.

Employment of Patients in Work Programs

Pending authoritative rulings of the courts, the Department of Labor will not assert that initial participation of patients in a work program constitutes an employment relationship if the following conditions are met.

1. The tasks performed by the patient are part of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in the treatment of the patient, and
2. The patient does not displace a regular employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees who would be employed by the hospital or institution or an independent contractor, including, for example, employees of a contractor operating the food service facilities.

After placement in the workshop, on a job in the hospital or institution, or in another establishment, an employment relationship will ordinarily develop and the provisions of the Fair Labor Standards Act will become applicable. This shift to an employment relationship may come shortly after placement or it may occur later. As a general guide, work for a particular employer, whether the hospital, institution, or another establishment, after 3 months will be assumed by the Wage and Hour and Public Contracts Divisions to be part of an employment relationship unless the employer can show the contrary.

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Where placements are made with successive employers for short periods of time, it is not expected in the ordinary course that such placements will be very long with a particular employer. As a general guide, work for successive employers for short periods of time after a total of 6 months will be assumed by the Wage and Hour and Public Contracts Divisions to be part of an employment relationship unless it can be shown to the contrary. When the employment relationship has developed, the applicable statutory minimum must be paid except where special minimum wages below the statutory minimum are authorized by the Wage and Hour and Public Contracts Divisions.

Statutory Minimum Wages

The minimum wage is \$1.60 an hour for employment subject to the act before the 1966 amendments. The minimum wage for employment made subject to the act by the 1966 amendments (which includes work in covered hospitals and institutions) is now \$1.15 an hour, advancing to \$1.30 on February 1, 1969, and except for employment in agriculture advancing to \$1.45 on February 1, 1970, and to \$1.60 on February 1, 1971.

Certificates Authorizing Rates Below the Statutory Minimum

The Wage and Hour and Public Contracts Divisions' regional and district offices may issue certificates authorizing special minimum wages below the statutory minimum under 29 CFR Part 524 and Part 525 for employment of handicapped workers in competitive employment and in sheltered workshops, respectively. Application forms and instructions for completion of such forms may be obtained from the regional or district office of the Wage and Hour and Public Contracts Divisions which serves the area in which the establishment or institution is located.