



Half an Hour for Health Care

**Darling, Stand by Me...
And Avoid On-Call Pitfalls Facing Health
Care Employers.**

July 18, 2024

Seyfarth Shaw LLP

“Seyfarth” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).

©2024 Seyfarth Shaw LLP. All rights reserved. Private and Confidential





Legal Disclaimer

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

Seyfarth Shaw LLP

“Seyfarth” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership).
2024 Seyfarth Shaw LLP. All rights reserved. Private and Confidential

Speakers



Bailey Bifoss
Partner
San Francisco



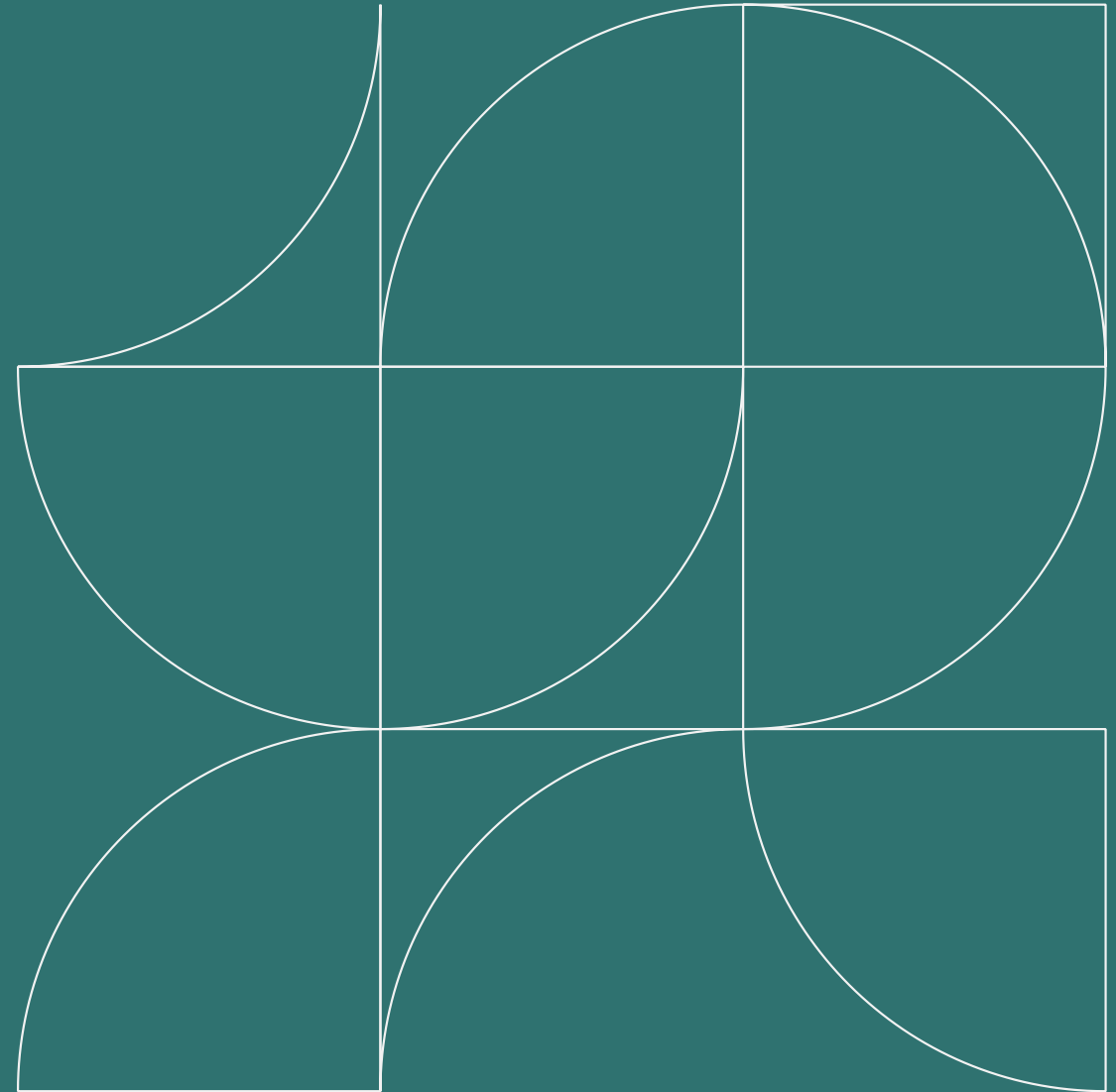
Brian Gillis
Associate
San Francisco



Agenda

- 1 | Defining “Standby Time” and “On-Call Time”
- 2 | Legal Authority
- 3 | Compensability Factors
- 4 | Pitfalls and Best Practices

Introduction

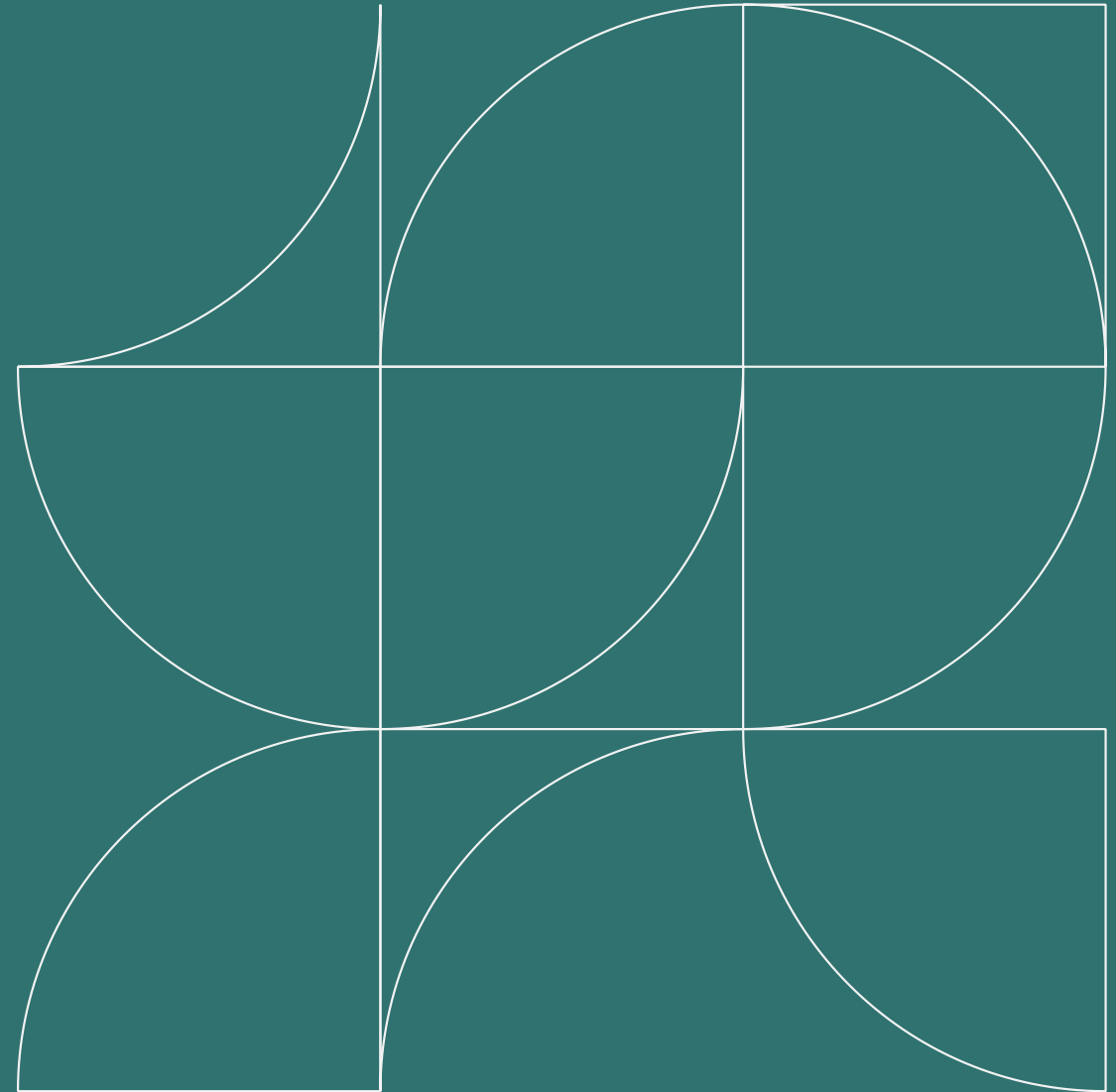


“On-Call” and “Standby” Time



- What is “on-call” or “standby” time?
 - Controlled standby versus uncontrolled standby
- Particular relevance for healthcare industry employees
 - Nature of business requires extensive use of on-call employees
 - Higher wages = higher risk

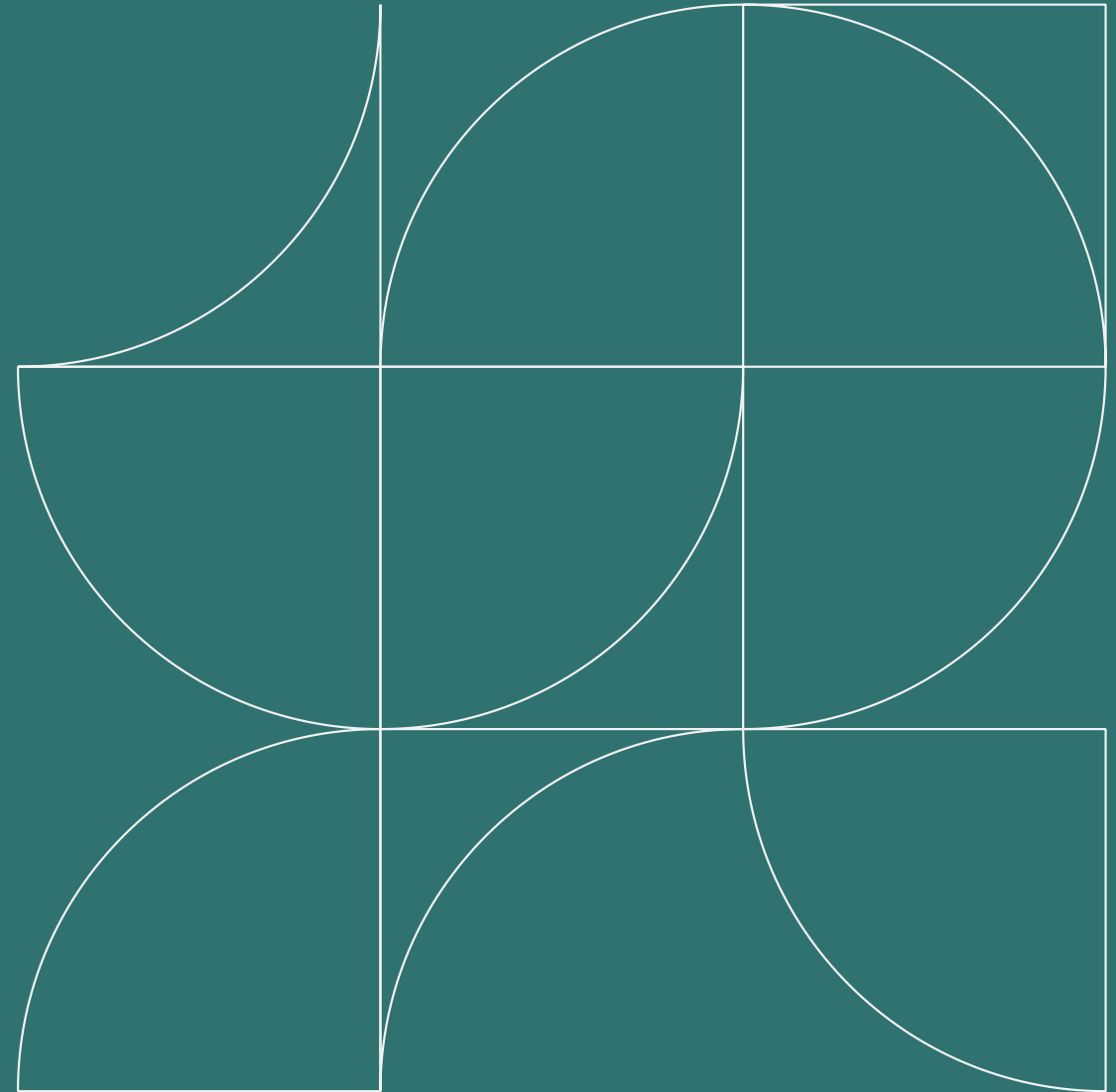
Sources of Legal Authority Governing Standby Time



When the Night Has Come and the Land is Dark ... California Versus Federal Law

- California Labor Code
- FLSA
- IWC Wage Order 5

When Is On-Call Time Compensable?



I Won't Be Afraid

- Compensability of standby time focuses on employer level of control
 - Factors evaluated:
 - Whether there is an on-premises living requirement
 - Whether there were excessive geographical restrictions on the employee's movement
 - Whether a fixed time limit for the employee to respond to a callout was unduly restrictive
 - Whether the frequency of calls is unduly restrictive
 - Whether the on-call employee can easily trade on-call responsibilities
 - Whether the use of a pager could ease restrictions
 - Whether the employee had actually engaged in personal activities during on-call time
-

No, I Won't Be Afraid

- On-Premises Living Requirement
- Often a key determinant of whether on-call time is compensable, controlled standby
 - *Mendiola v. CPS Security Solutions*
 - *Seymore v. Metson Marine Inc.*
 - *Brigham v. Eugene Water & Electric Board*
- No published California case has held that time when an on-call employee without an on-premises living requirement is entitled to minimum wage for standby hours worked

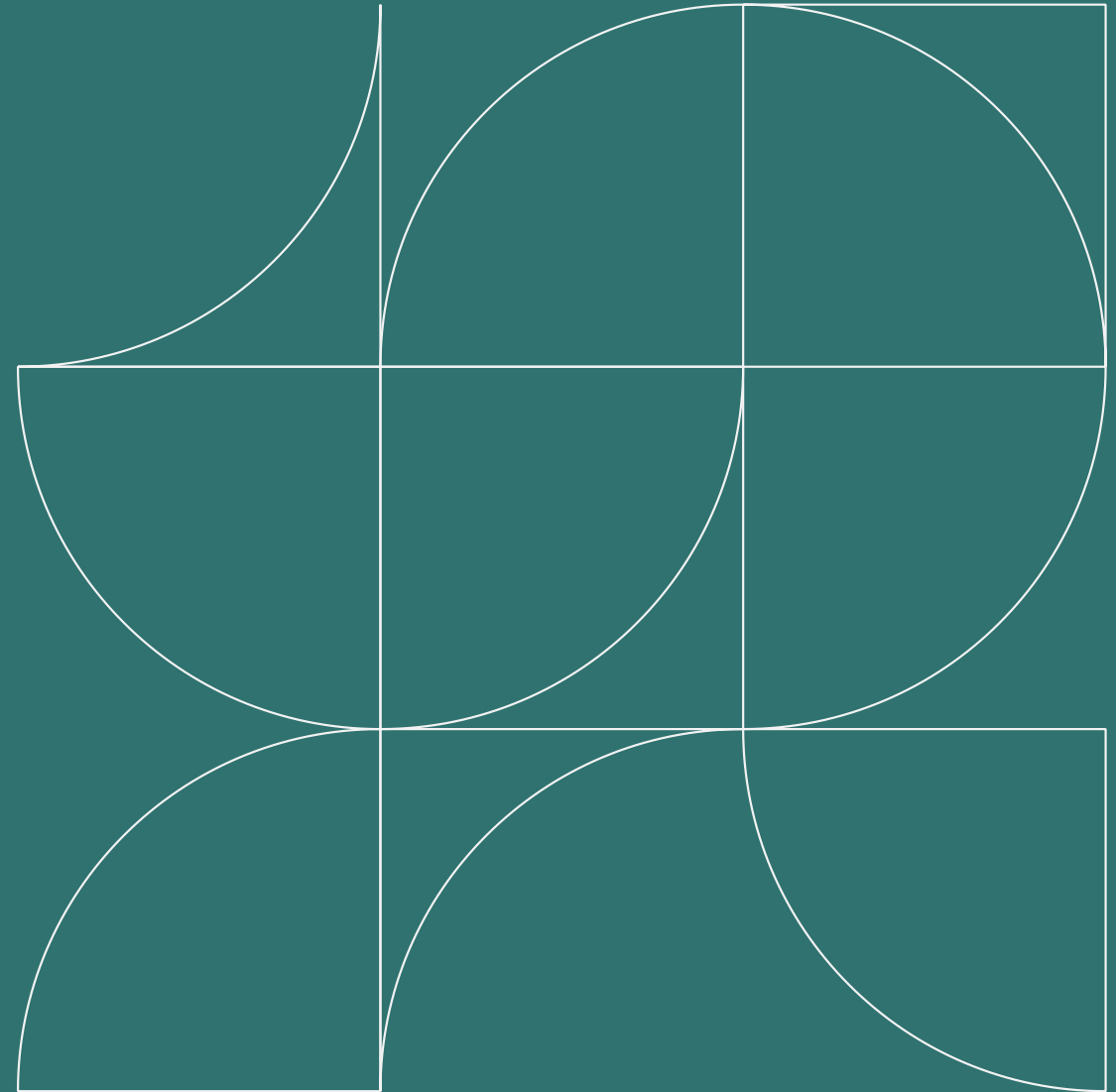
Just As Long

- How long is a reasonable amount of time to respond?
It depends.
 - Consider employee residences
 - Consider geographic location of employer
 - Other factors
-

As You Stand, Stand By Me

- Healthcare Specific Cases and Issues
 - *Gardner v. Cape Cod Healthcare*
 - *Reimer v. Champion Healthcare Corporation*
 - *Bright v. Houston Northwest Medical Center*
 - *Pilkenton v. Appalachian Regional Hospitals*
 - Reporting Time Pay
-

Pitfalls and Best Practices



Whenever You're in Trouble Won't You Stand By Me

- Avoid trouble with these tips
 - Align policies with practices
 - Evaluate your response time
 - Monitor frequency of on-call and callbacks
 - Ensure callback time is being tracked and paid appropriately, and that employees are following policy when they return
 - Properly calculate the regular rate of pay
-



SCAN ME

CLE: NEW PROCESS

Please scan the QR code and complete the digital attendance verification form to receive CLE credit for this program.

You will need:

1. **Title:** Half an Hour for Healthcare - Part 3: Darling, Stand by Me... And Avoid On-Call Pitfalls Facing Health Care Employers
2. **Date Viewed:** July 18, 2024
3. **Attendance Verification Code:** SS7248

State-specific CLE credit information can be found in the form.

**thank
you**

For more information please contact:

Bailey Bifoss

Email: bbifoss@seyfarth.com

Phone: (415) 544-1050

Brian Gillis

Email: bgillis@seyfarth.com

Phone: (415) 732-1122