As Passed by the House

133rd General Assembly
Regular Session
2019-2020

H. B. No. 144

Representative Manning, D.


A BILL

To amend section 3727.53 and to enact section 3727.58 of the Revised Code to prohibit a hospital from requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3727.53 be amended and section 3727.58 of the Revised Code be enacted to read as follows:

Sec. 3727.53. (A) In accordance with division (B) of this section, each hospital shall create an evidence-based written nursing services staffing plan guiding the assignment of nurses hospital-wide. The staffing plan shall be implemented not later than ninety days after the hospital-wide nursing care committee is convened pursuant to section 3727.51 of the Revised Code, except that if the hospital's next fiscal year starts not later than one hundred eighty days after the date on which the
committees convenes, implementation may be delayed until the first day of that fiscal year.

(B) The staffing plan created under this section shall, at a minimum, be consistent with section 3727.58 of the Revised Code and reflect current standards established by private accreditation organizations or governmental entities. The plan shall be based on multiple nurse and patient considerations that yield minimum staffing levels for inpatient care units that ensure that the hospital has a staff of competent nurses with specialized skills needed to meet patient needs. These considerations shall include both of the following:

(1) The recommendations of the hospital-wide nursing care committee made under section 3727.52 of the Revised Code, which shall be given significant consideration;

(2) All of the matters listed in divisions (B)(1) to (5) of section 3727.52 of the Revised Code.

Sec. 3727.58. (A) As used in this section:

(1) “Overtime” means an amount of time that is worked in excess of the shift of a registered nurse or licensed practical nurse and to which both of the following apply:

(a) The nurse first receives notice during the shift that the nurse will be required to work in excess of the shift.

(b) The excess work must be performed immediately after the nurse's shift is scheduled to end.

(2) “Registered nurse” and "licensed practical nurse" have the same meanings as in section 4723.01 of the Revised Code.

(3) “Shift” means a specific period of time a registered nurse or licensed practical nurse is required to work in a...
twenty-four-hour period that has been scheduled in advance by a hospital.

(B)(1) Except as provided in division (C) of this section, a hospital shall not require a registered nurse or licensed practical nurse employed by the hospital to work overtime as a condition of continued employment with the hospital.

(2) Actions by a hospital that constitute violations of division (B)(1) of this section include both of the following:

(a) Terminating or proposing to terminate the employment of a registered nurse or licensed practical nurse with the hospital solely because the nurse chooses not to work overtime;

(b) Taking or proposing to take disciplinary or retaliatory action against a registered nurse or licensed practical nurse solely because the nurse chooses not to work overtime.

(C) Division (B)(1) of this section does not prohibit any of the following:

(1) A registered nurse or licensed practical nurse from voluntarily working overtime;

(2) A hospital from offering overtime to a registered nurse or licensed practical nurse or permitting a registered nurse or licensed practical nurse to work overtime when the nurse chooses;

(3) A hospital from maintaining a predetermined schedule under which a registered nurse or licensed practical nurse is in on-call status or from causing a registered nurse or licensed practical nurse to be summoned to work while in on-call status;

(4) A hospital from requesting or scheduling a registered
nurse or licensed practical nurse to work overtime if any of the following is the case:

(a) A health care disaster, such as a natural or other disaster that increases the need for health care personnel, unexpectedly affects the hospital's service area.

(b) A federal, state, or county declaration of emergency is in effect in the hospital's service area.

(c) There is an emergency, unforeseen event, or influx of patients and all of the following apply to the emergency, unforeseen event, or influx of patients:

(i) It results in patient care needs beyond reasonable, predictable levels;

(ii) It increases the need for health care personnel at the hospital to provide safe patient care;

(iii) It could not reasonably be anticipated by the hospital.

(d) The nurse is actively engaged in ongoing medical treatment or a surgical procedure and the continued presence of the nurse through the completion of the medical treatment or procedure is necessary to ensure the health and safety of the patient.

Section 2. That existing section 3727.53 of the Revised Code is hereby repealed.