

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 456**

**Representative Sprague**

**Cosponsors: Representatives Antonio, Kelly, Kent, Riedel**

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**A BILL**

To amend section 3727.53 and to enact section 1  
3727.58 of the Revised Code to prohibit a 2  
hospital from requiring a registered nurse or 3  
licensed practical nurse to work overtime as a 4  
condition of continued employment. 5

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

**Section 1.** That section 3727.53 be amended and section 6  
3727.58 of the Revised Code be enacted to read as follows: 7

**Sec. 3727.53.** (A) In accordance with division (B) of this 8  
section, each hospital shall create an evidence-based written 9  
nursing services staffing plan guiding the assignment of nurses 10  
hospital-wide. The staffing plan shall be implemented not later 11  
than ninety days after the hospital-wide nursing care committee 12  
is convened pursuant to section 3727.51 of the Revised Code, 13  
except that if the hospital's next fiscal year starts not later 14  
than one hundred eighty days after the date on which the 15  
committee convenes, implementation may be delayed until the 16  
first day of that fiscal year. 17

(B) The staffing plan created under this section shall, at 18

a minimum, be consistent with section 3727.58 of the Revised 19  
Code and reflect current standards established by private 20  
accreditation organizations or governmental entities. The plan 21  
shall be based on multiple nurse and patient considerations that 22  
yield minimum staffing levels for inpatient care units that 23  
ensure that the hospital has a staff of competent nurses with 24  
specialized skills needed to meet patient needs. These 25  
considerations shall include both of the following: 26

(1) The recommendations of the hospital-wide nursing care 27  
committee made under section 3727.52 of the Revised Code, which 28  
shall be given significant consideration; 29

(2) All of the matters listed in divisions (B) (1) to (5) 30  
of section 3727.52 of the Revised Code. 31

**Sec. 3727.58.** (A) As used in this section: 32

(1) "Overtime" means an amount of time that is worked in 33  
excess of an agreed upon, predetermined, scheduled full-time or 34  
part-time work week. 35

(2) "Registered nurse" and "licensed practical nurse" have 36  
the same meanings as in section 4723.01 of the Revised Code. 37

(B) (1) Except as provided in division (C) of this section, 38  
a hospital shall not require a registered nurse or licensed 39  
practical nurse employed by the hospital to work overtime as a 40  
condition of continued employment with the hospital. 41

(2) Actions by a hospital that constitute violations of 42  
division (B) (1) of this section include both of the following: 43

(a) Terminating or proposing to terminate the employment 44  
of a registered nurse or licensed practical nurse with the 45  
hospital solely because the nurse chooses not to work overtime; 46

(b) Taking or proposing to take disciplinary or 47  
retaliatory action against a registered nurse or licensed 48  
practical nurse solely because the nurse chooses not to work 49  
overtime. 50

(C) Division (B) (1) of this section does not prohibit any 51  
of the following: 52

(1) A registered nurse or licensed practical nurse from 53  
voluntarily working overtime; 54

(2) A hospital from offering overtime to a registered 55  
nurse or licensed practical nurse or permitting a registered 56  
nurse or licensed practical nurse to work overtime when the 57  
nurse chooses; 58

(3) A hospital from requesting or scheduling a registered 59  
nurse or licensed practical nurse to work overtime if any of the 60  
following is the case: 61

(a) A health care disaster, such as a natural or other 62  
disaster that increases the need for health care personnel, 63  
unexpectedly affects the county in which the hospital is located 64  
or a contiguous county. 65

(b) A federal, state, or county declaration of emergency 66  
is in effect in the county in which the hospital is located or a 67  
contiguous county. 68

(c) There is an emergency, unforeseen event, or influx of 69  
patients and all of the following apply to the emergency, 70  
unforeseen event, or influx of patients: 71

(i) It results in patient care needs beyond reasonable, 72  
predictable levels; 73

(ii) It increases the need for health care personnel at 74

the hospital to provide safe patient care; 75

(iii) It could not prudently be anticipated by the 76  
hospital. 77

(d) The nurse is actively engaged in an ongoing medical or 78  
surgical procedure and the continued presence of the nurse 79  
through the completion of the procedure is necessary to ensure 80  
the health and safety of the patient. 81

(D) Through the attorney general or an appropriate 82  
prosecuting attorney, the department of health may apply to the 83  
court of common pleas of the county in which a hospital is 84  
located for a temporary or permanent injunction restraining the 85  
hospital from violating division (B) (1) of this section. On a 86  
showing that a violation has occurred, the court shall grant an 87  
order enjoining the violation. 88

The remedy provided for in this division is in addition to 89  
all penalties and other remedies available under this chapter or 90  
any other provision of the Revised Code. 91

**Section 2.** That existing section 3727.53 of the Revised 92  
Code is hereby repealed. 93