

As Reported by the House Commerce and Labor Committee

133rd General Assembly

Regular Session

2019-2020

H. B. No. 144

Representative Manning, D.

**Cosponsors: Representatives Riedel, Miranda, Russo, Lepore-Hagan, Lightbody,
Smith, K.**

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 the shift of a registered nurse or licensed practical 34
nurse and to which both of the following apply: 35

(a) The nurse first receives notice during the shift that 36
the nurse will be required to work in excess of the shift. 37

(b) The excess work must be performed immediately after 38
the nurse's shift is scheduled to end. 39

(2) "Registered nurse" and "licensed practical nurse" have 40
the same meanings as in section 4723.01 of the Revised Code. 41

(3) "Shift" means a specific period of time a registered 42
nurse or licensed practical nurse is required to work in a 43
twenty-four-hour period that has been scheduled in advance by a 44
hospital. 45

(B) (1) Except as provided in division (C) of this section, 46
a hospital shall not require a registered nurse or licensed 47
practical nurse employed by the hospital to work overtime as a 48
condition of continued employment with the hospital. 49

(2) Actions by a hospital that constitute violations of 50
division (B) (1) of this section include both of the following: 51

(a) Terminating or proposing to terminate the employment 52
of a registered nurse or licensed practical nurse with the 53
hospital solely because the nurse chooses not to work overtime; 54

(b) Taking or proposing to take disciplinary or 55
retaliatory action against a registered nurse or licensed 56
practical nurse solely because the nurse chooses not to work 57
overtime. 58

(C) Division (B) (1) of this section does not prohibit any 59
of the following: 60

(1) A registered nurse or licensed practical nurse from 61
voluntarily working overtime; 62

(2) A hospital from offering overtime to a registered 63
nurse or licensed practical nurse or permitting a registered 64
nurse or licensed practical nurse to work overtime when the 65
nurse chooses; 66

(3) A hospital from maintaining a predetermined schedule 67
under which a registered nurse or licensed practical nurse is in 68
on-call status or from causing a registered nurse or licensed 69
practical nurse to be summoned to work while in on-call status; 70

(4) A hospital from requesting or scheduling a registered 71
nurse or licensed practical nurse to work overtime if any of the 72
following is the case: 73

(a) A health care disaster, such as a natural or other 74
disaster that increases the need for health care personnel, 75
unexpectedly affects the hospital's service area. 76

(b) A federal, state, or county declaration of emergency 77
is in effect in the hospital's service area. 78

(c) There is an emergency, unforeseen event, or influx of 79
patients and all of the following apply to the emergency, 80
unforeseen event, or influx of patients: 81

(i) It results in patient care needs beyond reasonable, 82
predictable levels; 83

(ii) It increases the need for health care personnel at 84
the hospital to provide safe patient care; 85

(iii) It could not reasonably be anticipated by the 86
hospital. 87

(d) The nurse is actively engaged in ongoing medical 88
treatment or a surgical procedure and the continued presence of 89
the nurse through the completion of the medical treatment or 90
procedure is necessary to ensure the health and safety of the 91
patient. 92

Section 2. That existing section 3727.53 of the Revised 93
Code is hereby repealed. 94