March 11, 2021

Ohio Nurses Association
House Finance Committee
Proponent Testimony on HB 110

Good morning Chairman Oelslager, Vice Chair Plummer, Ranking Member Crawley and Members of the House Finance Committee. My name is Tiffany Bukoffsky, and I am a registered nurse as well as the Director of Health Policy for the Ohio Nurses Association. Thank you for allowing me to be here today to testify in support of HB 110. ONA believes the Governor's Executive Budget makes important investments in public health both at the state and local level, efforts to combat health disparities, infant mortality, as well as necessary COVID-19 mitigation and prevention initiatives. We urge the Legislature to maintain those worthwhile investments as you continue your review of HB 110. However, I would like to focus my testimony today on the provisions in House Bill 110 that would create an Ohio hospital licensing system through the Ohio Department of Health (ODH). Many of you may not be aware that Ohio is the only state in the country that does not have a hospital licensing requirement. While Ohio hospitals are currently required to register with ODH and several service lines are subject to individual unit licensure requirements, hospital themselves are not required to hold a license. ONA fully supports a statewide hospital licensing system and would like to see additional regulation and inspection requirements that ensure all hospitals are meeting appropriate standards of patient service and safety.

To begin, I'd like to address accreditation standards and ODH oversight authority. Ohio hospitals are required to register and report data to ODH annually, in accordance with section 3701.07 of the Ohio Revised Code. As a part of the registration process, hospitals are required to complete and submit the Annual Hospital Registration and Planning Report (AHR) by March 1st of each calendar year. Additionally, hospitals may be accredited by organizations like the Joint Commission, that have been approved by the Centers for Medicare and Medicaid Services (CMS) and are deemed to meet conditions of participation for Medicare program participation. Almost all Ohio hospitals are required to comply with accreditation standards and thus do **not** fall under the jurisdiction of the Ohio Department of Health for survey and certification, however they can still be inspected by ODH. On the other hand, non-accredited hospitals are surveyed by ODH. When a complaint is filed against an accredited hospital, CMS may direct ODH to conduct the complaint investigation survey or may refer the complaint to the accrediting organization. According to the ODH hospital website:

> *CMS directs the standard survey of approximately 1 to 3% of Ohio's accredited hospitals each year to validate the continued meeting of Medicare standards through accreditation surveys. The hospitals to be surveyed under the "validation" program are selected by CMS. Non-accredited hospitals are surveyed at an interval not to exceed five years to maintain a three-year average for all non-accredited hospitals in the state.*

While ONA appreciates the current process in place for registration, surveying, reporting, and complaint investigations, we do not believe CMS oversight for accredited hospitals, and the current non-accredited survey process is enough to hold our hospitals accountable to standards our state deems safe for all Ohioans. Additionally, ONA believes hospital oversight, operation and regulation should be managed and dictated by the state and not the federal government and/or third-party accreditor. Ohio loses out on the opportunity to tailor its standards appropriately and set its own high-quality indicators by giving up that authority to federal regulators. The first line of defense for Ohio hospital accountability should not be the federal government.

In addition, in reviewing hospital licensing systems in other states comparable to Ohio, we believe there are a few additional layers of transparency and safety Ohio could strive for that would ensure we don't fall behind other states in patient care. For example, Illinois has a Hospital Licensing Board of fourteen members representing various sectors of the healthcare delivery spectrum. This Board develops, establishes, and enforces standards for Illinois hospitals in partnership with the health department head. ONA believes a licensing oversight board that is representative of all practitioners in the hospital space would be an effective check on the licensure process and allow for frontline expert voices to have a say in the process. In addition, all hospitals in Illinois are required to report the following to the Secretary of Health and Human Services: nurse staffing levels, prevention of infection measures, and hospital acquired infections data. These, in turn, must be made available to the public in published hospital report cards. ONA believes we could benefit from a similar system in which a public-facing interface holds statewide hospital report card data, including hospital safety plans, incidents of workplace violence, detailed nurse staffing plans per unit and shift, and the number of hours staff are working. Any proprietary or confidential information would of course be excluded from this data, but the intent would be to add much-needed transparency in these important staffing areas, which directly impact patient care. Patients should be able to make informed decisions when it comes to hospitals and publicizing this data will likely incentivize improved hospital performance and quality standards.

Along with a hospital report card, ONA would also like to see a statewide reporting system through which employees and patients of hospitals could report unsafe staffing levels, workplace violence incidences, equipment functionality, and safety plan compliance. Many times, this type of reporting is the best way to identify deficiencies in these areas and draw management's attention to the problem. Nurses working in some Ohio hospitals currently use an "Assignment Despite Objection" form to file and report workplace safety concerns. ONA believes a similar form should be created and used throughout the state. We believe the Ohio Department of Health should collect these forms and actively track workplace safety concerns on behalf of hospital employees and patients. Again, these types of issues are key to a safe and well-functioning hospital environment that adequately serves patients and protects its critical workforce.

ONA also believes Ohio should expand the application of "Certificates of Need" beyond long-term care facilities. A "Certificate of Need" (CON) is a certification that numerous states require before approving hospital construction, expansion, changes in bed capacity, conversion, sale, purchase, or lease. The CON is intended to control healthcare facility costs and facilitate the coordination of adding new services and/or facilities. Thirty-five states currently maintain some form of a CON program, including Indiana, Michigan, Florida, and Illinois. In Michigan, the CON process is triggered when a healthcare facility does any of the

following: seeks to acquire an existing facility; begins operation of a healthcare facility; makes a change in the bed capacity within a facility; initiates, replaces or expands a covered clinical service; or makes a covered capital expenditure. However, ONA believes that a truly effective and protective CON program should also be triggered by a reduction in services, since that has a direct negative impact on availability and accessibility of care. ONA believes any reduction in services provided should be included in Ohio's hospital CON requirements.

To provide context for the CON and the need for implementing this process in acute care settings, I want to share a case ONA worked on extensively in July and August of 2020. ONA filed a federal lawsuit against the Ashtabula County Medical Center and its Board of Trustees due to the hospital closing its maternity unit, only a few weeks after the hospital made the announcement of its planned closure. Unfortunately, the judge did not grant the emergency injunction and the unit did close on August 1st, leaving the entire county of Ashtabula without a maternity unit for their expectant mothers. Within three weeks of the unit closure, two laboring mothers entered the ACMC emergency department and both had to wait an hour and a half for ambulances to transport them to Hillcrest, a hospital over 50 miles away.

Unfortunately, ACMC is not the only hospital in the state to close its doors to expectant mothers, and over 84 maternity units have either been closed or acquired by a larger hospital system over the last two decades. It is not news that Ohio ranks 44th in the country with our infant mortality rates, yet we have experienced 84 maternity unit license closures over the last two decades. The Ohio Equity Institute was created in 2012 and collaborates with the Ohio Department of Health to address racial disparities in birth outcomes and population data to target areas of outreach and services to nine counties with the largest disparities. Of the nine counties identified, four counties have the highest number of maternity license closures in the state, including Cuyahoga (11 of 84), Lucas (8 of 84), Mahoning (6 of 84), and Stark (6 of 84). From our research, ONA believes there is a correlation between mortality rates and maternity closures over the last two decades. If our state had a Certificate of Need program in place, triggered by a reduction in services, perhaps Ohio could have prevented some maternity unit closures and our infant mortality rates would look starkly different.

Lastly, ONA would recommend changes to language within HB 110 that would allow hospitals to avoid inspections for initial licensure or a renewal if the hospital submits a copy of the hospital's most recent on-site survey report from an accrediting body demonstrating that the hospital is in deemed status. Most states recognize something like "deemed status" that exempts hospitals from numerous state licensure requirements if they are certified by a recognized accrediting body. While on-site surveys may cover many important quality standards, ONA believes that Ohio's licensing system should not provide opportunities for hospitals to evade regular check-ins. Furthermore, Ohio should not yield oversight authority over its own hospitals to a third party. ONA believes that yearly hospital inspections are an important part of ensuring full accountability and compliance with critical quality standards. In addition, to ensure the inspections accurately reflect hospital conditions, the state should have the authority to conduct its inspections unannounced. Hospitals should have no concerns about this if they are correctly abiding by all licensure standards. Conducting annual inspections will also ensure all hospitals are up-to-date on submitting their Annual Hospital Registration and Planning Report. For example, Mount Carmel East Hospital's last accreditation survey took place on August 11th, 2017. And currently nineteen Ohio hospitals

are not registered with ODH and are listed as “non-compliant”. ONA believes this information shows a lack of accountability for hospitals to remain compliant and illustrates the deficiencies in the current system.

We understand creating a statewide hospital licensing system will take time and that the rulemaking process will be just as extensive. ONA looks forward to the continued work with the legislature and the administration to address the future of health care and the hospital licensing system. The Ohio Nurses Association fully supports hospital licensing, as proposed in the Executive Budget, HB 110, and we hope you will take our recommendations to further strengthen the system under consideration.

Thank you for allowing me to testify and I would be happy to answer any questions you may have.