

As Reported by the House Commerce and Labor Committee

134th General Assembly

Regular Session

2021-2022

H. B. No. 163

Representatives Cutrona, Sweeney

**Cosponsors: Representatives Riedel, Gross, Jones, Miller, J., Carruthers, O'Brien,
Lepore-Hagan**

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 nurse to work overtime 3
as a condition of continued employment. 4

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

Section 1. That section 3727.53 be amended and section 5
3727.58 of the Revised Code be enacted to read as follows: 6

Sec. 3727.53. (A) In accordance with division (B) of this 7
section, each hospital shall create an evidence-based written 8
nursing services staffing plan guiding the assignment of nurses 9
hospital-wide. The staffing plan shall be implemented not later 10
than ninety days after the hospital-wide nursing care committee 11
is convened pursuant to section 3727.51 of the Revised Code, 12
except that if the hospital's next fiscal year starts not later 13
than one hundred eighty days after the date on which the 14
committee convenes, implementation may be delayed until the 15
first day of that fiscal year. 16

(B) The staffing plan created under this section shall, at 17

a minimum, be consistent with section 3727.58 of the Revised 18
Code and reflect current standards established by private 19
accreditation organizations or governmental entities. The plan 20
shall be based on multiple nurse and patient considerations that 21
yield minimum staffing levels for inpatient care units that 22
ensure that the hospital has a staff of competent nurses with 23
specialized skills needed to meet patient needs. These 24
considerations shall include both of the following: 25

(1) The recommendations of the hospital-wide nursing care 26
committee made under section 3727.52 of the Revised Code, which 27
shall be given significant consideration; 28

(2) All of the matters listed in divisions (B) (1) to (5) 29
of section 3727.52 of the Revised Code. 30

Sec. 3727.58. (A) As used in this section: 31

(1) "Overtime" means an amount of time that is worked in 32
excess of the shift of a registered nurse or licensed practical 33
nurse and to which both of the following apply: 34

(a) The nurse first receives notice during the shift that 35
the nurse will be required to work in excess of the shift. 36

(b) The excess work must be performed immediately after 37
the nurse's shift is scheduled to end. 38

(2) "Registered nurse" and "licensed practical nurse" have 39
the same meanings as in section 4723.01 of the Revised Code. 40

(3) "Shift" means a specific period of time a registered 41
nurse or licensed practical nurse is required to work in a 42
twenty-four-hour period that has been scheduled in advance by a 43
hospital. 44

(B) (1) Except as provided in division (C) of this section, 45

a hospital shall not require a registered nurse or licensed 46
practical nurse employed by the hospital to work overtime as a 47
condition of continued employment with the hospital. 48

(2) Actions by a hospital that constitute violations of 49
division (B) (1) of this section include both of the following: 50

(a) Terminating or proposing to terminate the employment 51
of a registered nurse or licensed practical nurse with the 52
hospital solely because the nurse chooses not to work overtime; 53

(b) Taking or proposing to take disciplinary or 54
retaliatory action against a registered nurse or licensed 55
practical nurse solely because the nurse chooses not to work 56
overtime. 57

(C) Division (B) (1) of this section does not prohibit any 58
of the following: 59

(1) A registered nurse or licensed practical nurse from 60
voluntarily working overtime; 61

(2) A hospital from offering overtime to a registered 62
nurse or licensed practical nurse or permitting a registered 63
nurse or licensed practical nurse to work overtime when the 64
nurse chooses; 65

(3) A hospital from maintaining a predetermined schedule 66
under which a registered nurse or licensed practical nurse is in 67
on-call status or from causing a registered nurse or licensed 68
practical nurse to be summoned to work while in on-call status; 69

(4) A hospital from requesting or scheduling a registered 70
nurse or licensed practical nurse to work overtime if any of the 71
following is the case: 72

(a) A health care disaster, such as a natural or other 73

disaster that increases the need for health care personnel, 74
unexpectedly affects the hospital's service area. 75

(b) A federal, state, or county declaration of emergency 76
is in effect in the hospital's service area. 77

(c) There is an emergency, unforeseen event, or influx of 78
patients and all of the following apply to the emergency, 79
unforeseen event, or influx of patients: 80

(i) It results in patient care needs beyond reasonable, 81
predictable levels; 82

(ii) It increases the need for health care personnel at 83
the hospital to provide safe patient care; 84

(iii) It could not reasonably be anticipated by the 85
hospital. 86

(d) The nurse is actively engaged in ongoing medical 87
treatment or a surgical procedure and the continued presence of 88
the nurse through the completion of the medical treatment or 89
procedure is necessary to ensure the health and safety of the 90
patient. 91

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