



**Ohio Hospital Association and Ohio Chamber of Commerce
Written Opponent Testimony to House Commerce and Labor Committee
April 21, 2021**

Chairman Stein, Vice Chair Johnson, Ranking Member Lepore-Hagan and members of the House Commerce and Labor Committee, on behalf of the Ohio Hospital Association and the Ohio Chamber of Commerce, we appreciate the opportunity to share our perspectives on House Bill 163 which would prohibit mandatory nurse overtime in hospitals.

With respect to the need of for this legislation, HB 163 seeks to address a problem that has not been quantified. Despite reasonable requests for specific data to substantiate the allegation of widespread use of mandated overtime, no data or specific references to hospitals have been provided to suggest that this practice is occurring. Instead, subjective accounts have been provided. Legislation to address an alleged issue without quantification is not necessary. An effective alternative to this legislation would be focused collaboration to address any potential or actual areas of concern, whether widespread or limited.

Regarding safe hospital staffing, hospitals have no desire to utilize overtime as a routine staffing strategy, for many reasons. Patient care staffing is based upon patient care needs. Patient care needs are based upon patient condition that legislation is not able to predict or control. Since patient care needs continually fluctuate, hospital staffing needs also fluctuate in response to those needs. Hospitals must adequately and safely address those patient care needs, especially when the timing of patient care is of the essence. To ensure that patient care is safe and adequate, staffing is continually assessed throughout a 24-hour period, not simply daily. To cite merely a few, examples of continuously fluctuating staffing considerations based upon patient needs include patient admissions, patient discharges, patient transfers, patient surgical cases, emergency department patient volume and acuity, and community disasters. Continual assessment of considerations such as these examples are critical to ensure safe care to the patients and communities served by hospitals. Some hospitals may need to contract with agency nurses to safely and adequately staff a shift due to last minute call-offs. Safe and timely patient care is the ultimate priority.

The need for overtime may result from several complex factors such as the number of call-offs in a shift, the RN turnover rate in a quarter or the number of competent nurses required in a

specialty care area that are away on a leave of absence, to cite merely a few. For example, when three call-offs occur within one hour of the beginning of an oncoming shift, a nursing leader is accountable for ensuring safe, timely patient care is rendered. That situation, not uncommon, may be addressed by asking for nurses to voluntarily add hours to their pre-scheduled time. This is NOT a staffing plan, but rather one way to address the issue of call-offs with limited time to secure replacement staff.

Hospitals DO offer voluntary overtime hours to nurses. Frequently, hospitals also offer incentives to nurses for electing to voluntarily add hours to their scheduled time. Nurses often choose to add these hours to their pre-scheduled time on duty and this bill allows the nurse to continue to do so. Supporters of this bill have cited safety concerns as a justification for their position. Hospitals are focused upon staff and patient safety as well, using existing fitness-for-duty policies and procedures to ensure patient and staff safety when nurses choose to voluntarily add hours on duty.

With respect to existing measures, ORC 3727.51 already exists and holds hospitals accountable for safe staffing plans with specifications including 50% staff nurse representation on each hospital's safe staffing committee and its development of consideration criteria including, but not limited to patient acuity, nurse competency, and the need to increase staffing. These plans must be submitted to the Ohio Department of Health as well as made publicly available upon request.

In addition, numerous safety standards and measurable elements of performance already exist to hold hospitals accountable for patient and staff safety, further making HB163 unnecessary. Hospitals engage in rigorous cyclical accreditation processes, seek specialty certifications, and designations for levels of care they provide to the patients and communities they serve. Each process possesses specific requirements and standards for safety and staffing, as well.

We want to convey our deep respect for the profession and practice of nursing. Further, we have immeasurable gratitude and appreciation for the nurses who form the very foundation of hospital operations. The COVID-19 pandemic has underscored the tireless and dedicated service of our hospitals' nurses, without whom we could not serve the many needs of our communities.

To that end, we would also like to acknowledge the immense toll the pandemic has taken on all caregivers. Ohio hospitals are addressing this challenge by retaining employee wellness (including mental and emotional wellbeing) as a top priority. There are several initiatives currently in place to address the needs of hospital employees and we have included an article that recently appeared in the *Columbus Dispatch* highlighting just a few.

Further, the Ohio Organization for Nursing Leadership (OONL), an affiliate society of OHA, has included the development of a leadership strategy to improve the workplace environment by promoting care of body, mind and spirit of nursing professionals as one of their strategic priorities. As part of this work, OONL is partnering with the Ohio State University on clinician wellbeing strategies, working to potentially implement some of the recommendations laid out in a policy brief titled *A Call to Action: Clinician Wellbeing and Patient Care and Safety* that was produced by the Health Policy Institute of Ohio in collaboration with the OSU College of

Nursing Helene Fuld Health Trust National Institute for Evidence-Based Practice in Nursing and Healthcare.

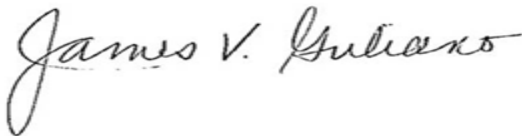
HB 163 proposes government mandates that interfere with the employment relationship between an employer and employee. Government mandates and regulations on any employment relationship is problematic and can hinder both employers and employees because they prevent companies and their employees from crafting tailored solutions that work best for all parties. Specifically, this legislation adds another layer of regulation on the employment practices of hospitals who are already subjected to the requirement to create and implement government mandated staffing plans for their nurses.

We believe that hospitals should be free from burdensome government regulations or mandates on their employment practices that fail to consider what is practical or makes sense for each individual hospital. Likewise, we believe employment practices are best addressed in labor negotiations between individual companies and their employees instead of using a one size fits all legislative mandate. We fundamentally disagree with government regulation and intervention in private employer decisions.

In closing, HB 163 creates government mandates that dictate the relationship between employers and employees and represents legislation that seeks to over-regulate Ohio employers which can hinder the state's economic competitiveness. Rather, an effective alternative to this legislation would be focused collaboration to address any potential or actual areas of concern, whether widespread or limited.

It is for these reasons that the Ohio Hospital Association and Ohio Chamber of Commerce have taken an opposition stance on HB163.

We appreciate the committee's time and consideration.



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About OHA:

Established in 1915, OHA is the nation's first state-level hospital association. OHA exists to collaborate with member hospitals and health systems to ensure a healthy Ohio. OHA currently represents 240 hospitals and 14 health systems throughout Ohio. OHA members hospitals in 2020 include: 189 acute care hospitals, 23 long-term acute care facilities, 28 psychiatric, rehabilitation, and specialty surgical hospitals, and 10 children's hospitals. Members include 33 critical access hospitals and 51 teaching hospitals. The association is governed by a 20-member Board of Trustees with representation from small and large hospitals, teaching facilities and health care systems with a committee and task force structure.

About the Ohio Chamber:

The Ohio Chamber of Commerce is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans. With members ranging from small businesses to international companies, the Ohio Chamber of Commerce represents Ohio's business voice. Founded in 1893, the Ohio Chamber is one of the state's oldest business organizations. The Ohio Chamber is led by a volunteer board of directors that consists of 66 business leaders from all over the state. Our staff of 19 people includes lobbyists, political experts, membership specialists and knowledgeable support staff. The Ohio Chamber staff promotes the chamber's pro-business agenda with Ohio's elected officials and manages membership services that help Ohio chamber members run their businesses.