



March 7, 2018

The Honorable Steven Huffman
Ohio House of Representatives
77 S. High St., 12th Floor
Columbus, OH 43215

RE: HB 456- Mandatory Work for Nurses

Chairman Huffman, Vice Chair Gavarone, Ranking Member Antonio, and members of the committee, I am Lori Chovanak, CEO of the Ohio Nurses Association and a practicing cardiac nurse practitioner.

I am testifying today to make you aware of an issue of grave concern to registered nurses and patients across the state, but more importantly I am here to offer a tried and true solution. If you survey nurses on the issues that concern them most, which ONA regularly does, the issues that top the list time and time again are unsafe nurse staffing and nurse fatigue – two consequences of nurse mandatory overtime.

So what is mandatory overtime? Put simply, mandatory overtime is mandatory work that occurs when a registered nurse has a predetermined schedule, but then is ordered to work additional hours before or after their predetermined schedule. In order to enforce this mandatory work, some facilities will threaten a nurse with termination and/or referral to the Board of Nursing for patient abandonment. Given these threats to nurses' personal and professional livelihood, it is easy to see why they feel coerced into accepting additional hours even though they may feel they are incapable of safely delivering care. Unfortunately, nurses mandated to work these additional hours lack the ability to stand up for themselves and their patients when they feel unsafe to continue delivering high quality care.

When ONA helped pass nurse-staffing legislation - House Bill 346 - in 2008, it was understood that this was a foundation to build upon. Some facilities are doing the right thing and are sensitive to nurse fatigue. Hospitals like Akron Children's have policies that limit the amount of hours a nurse can work in a 24-hour period. They not only recognize the importance of reducing nurse fatigue, but they comply with current Ohio law by bringing staffing committees together and producing amazingly detailed staffing plans for their hospital.

Unfortunately, though, there are many other facilities who lack detailed nurse staffing plans, and knowingly create schedules with staffing gaps. Their plan to fill these gaps includes coercing nurses into mandatory work.

The Recognized Leader and Advocate for Professional Nursing in Ohio

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It's important to note that since 2008, ONA has engaged with Ohio's nurses regularly to gauge the effectiveness of the 2008 law on nurse staffing. We have found that safe nurse staffing continues to be the top workplace issue for Ohio's nurses. Our members have conveyed this repeatedly, and comments on social media only reinforce this reality.

In 2015, hundreds of Ohio nurses joined together and voted for our association to combat the epidemic of unsafe nurse staffing and nurse fatigue through the elimination of mandatory work.

It's also important to note that ONA recognizes, perhaps better than anyone, the complexities surrounding nurse staffing. Nurse staffing is about having the right nurse with the right patient at the right time. But patients are safe when nurses are safe, and nurses aren't safe when they are worked to the point of exhaustion.

Mandating a nurse to work beyond his or her scheduled shift can lead to nurse fatigue and affect their ability to deliver optimal patient care in the safest way. Fatigue has been proven to result in increased risk of errors, decline in memory, reduced ability to learn, and impaired communication skills, contributing to medical errors being the third leading cause of preventable deaths in the United States. Even the most competent nurse can make an error when exhausted. Furthermore, nurse fatigue is dangerous for the nurse who must drive to and from work, with research demonstrating that fatigue can impair a driver as much as alcohol.

Though the title of this bill is 'Prohibit Requiring Nurses to Work Overtime,' I want to make it clear that nurses will still have the ability to work additional hours if they feel safe to do so. We believe that overtime decisions need to take place as a conversation between well-intentioned and dedicated healthcare professionals. Nurses enter this profession devoted to helping others and it's never easy for us to leave our patients. However, nurses are ethically bound to assess our ability to care for patients. The Ohio Nurse Practice Act also requires nurses by law to provide a safe environment for patient care. The Ohio Board of Nursing states:

"Working under conditions of fatigue may not be safe for the nurse or the patient. A nurse who fails to demonstrate competence or does not provide consistent performance within his or her nursing practice as a result of excessive work hours, or for any other reason, will not have met standards of safe practice."

Currently, nurses do not have the ability to refuse unsafe situations. These binders are full of slips of paper called Assignment Despite Objection forms – pieces of paper where a nurse documents an unsafe situation that he or she was forced to be part of, even when they expressed concerns to their supervisor. There are hundreds of these, and these only represent a small percentage of the situations that occur across our state.



House Bill 456 will allow nurses to have a real conversation about whether it's safe to continue to provide care. If the nurse feels safe to continue to provide care, he or she may do so. If the nurse does not feel safe providing care, House Bill 456 would provide the right for that nurse to decline additional hours, therefore allowing the nurse to uphold their ethical obligation and abide by the Ohio Nurse Practice Act without fear.

Simply put, Ohio should join 18 other states, including Texas, West Virginia, and Pennsylvania, in combating nurse fatigue by prohibiting mandated work. Additionally, this legislation would protect nurses from feeling coerced into working additional hours, beyond their regular shift, through the threat of termination or licensure sanction in non-emergency situations.

Studies and empirical evidence demonstrates that non-overtime nurse staffing decreases the odds of readmission of medical and surgical patients by approximately 50 percent and reduces post-discharge emergency department visits. The utilization of mandatory work and staffing plans that lack detail and contingency plans puts patients at risk. We believe adoption of this proposal would go a long way toward mitigating those risks.

I want to thank the Ohio Hospital Association (OHA) for their willingness to engage with us on trying to find a solution to this problem. The OHA has listened to our concerns, and both parties have been working together to try to find a solution that not only addresses the problem, but also eliminates possible loopholes so nurses feel the utmost confidence that this legislation will fulfill its intention and hospitals will have the flexibility they need to properly schedule. I would also like to thank Representative Sprague for his leadership on this important issue and for bringing the interested parties together to try to craft a solution.

There are facilities in Ohio that do not use mandatory overtime and are successful in staffing to meet the needs of their patients. Let's work together to ensure that ALL facilities do not use mandatory overtime.

On behalf of ONA and over 200,000 Ohio registered nurses, I want to thank you for the incredibly important work that you do. I am eager to provide additional information and would be happy to answer any questions you might have on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Chovanak", written in a cursive style.

Lori Chovanak, MN, APRN-BC
Chief Executive Officer, Ohio Nurses Association