OHIO HOSPITAL ASSOCIATION

Collaborating to
Ensure a Healthy Ohio

James Guliano
Vice President of Quality Programs
Ohio Hospital Association
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Chair Manning, Vice-Chair Dean, Ranking Member Lepore-Hagan and members of the House Commerce and Labor Committee, my name is James Guliano and I serve as Vice President of Quality Programs at the Ohio Hospital Association.

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 236 hospitals and 14 health systems throughout Ohio. 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.

I have been a registered nurse for 33 years and have served in past roles holding 24/7/365 accountability for safe, timely provision of hospital patient care services.

The Ohio Hospital Association opposes proposed HB 144 as it is unnecessary legislation. 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.

Hospitals already have policies and procedures in place to address fitness-for-duty which include recognition of conditions in which it would be unsafe for a nurse to practice, leading to hospital leadership taking action to remove a nurse from duty (for cause) to ensure patient and staff safety.

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 to adequately and safely address those needs, especially when the timing of patient care is of the essence.

The Ohio Hospital Association has thoughtfully considered its position on this proposed bill. Proposed HB 144 states that it is a bill "to prohibit a hospital from requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment". The Ohio Hospital Association, in its attempt to formulate a position on this proposed legislation, wanted to determine the magnitude of the alleged issue. Despite numerous requests made to the bill sponsor and of its supporters, no data quantifying the allegation that this practice exists has been available.

To the contrary, both the bill sponsors and the bill supporters have suggested that the Ohio Hospital Association collect such data. One must ask why legislation is necessary when the magnitude of the issue is not able to be substantiated. So, the Ohio Hospital Association subsequently DID approach a representative sample of the nursing leaders of its member hospitals and found that for the period of January 1, 2019 – July 31, 2019 (a period of 7 recent months) there were zero hours of "mandatory overtime" incurred and 255,714.89 hours of "voluntary overtime" incurred. The hospitals surveyed were a representative sample of small, rural, community, critical access, academic and health system hospitals. The definitions used were those stated in the proposed HB144 language.

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. Similarly, hospitals use fitness-for-duty policies and procedures to ensure patient and staff safety when nurses choose to voluntarily add hours on duty to ensure patient and staff safety.

Overtime is not used as a routine hospital staffing plan. The need for overtime results 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 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.

To ensure that patient care is safe and adequate, staffing is continually assessed throughout a 24-hour period, not simply daily. 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.

On-call status does not constitute mandatory overtime. On-call hours are utilized to staff in the event of a need for staffing coverage, such as an emergent Cesarean section. Another example would be if patient census is low, but the likelihood of it increasing exists, staff may request to have the time off but agree to be "on-call" to return to duty if the census increases. These are elective, planned situations that may result in overtime hours being incurred, but are not mandated hours. If the nurse agrees to be on-call, there is a pay structure for the on-call hours and an agreement to be "fit for duty" within a certain timeframe of being called back to duty, to ensure patient safety.

There have been allegations promoted that nurses are being pressured by hospitals to accept overtime hours. If this allegation is truly occurring, then that is a hospital leadership issue that is based upon culture. Legislation will not address this cultural concern. In a recent meeting in the bill sponsor's office, ONA representatives stated that the majority of Ohio hospitals are not engaging in this behavior. One must question why legislation would be needed to address the alleged behavior of a minority of Ohio hospitals?

In addition to ORC 3727.51, differing initiatives exist that further weaken the need for this proposed legislation. According to the Summer 2019 issue of Momentum (Volume 17, Issue 3), a publication of the Ohio Board of Nursing, a "Provider Staffing and Patient Safety Advisory Committee" exists with various health care employers and patient centered organizations. Its initial meeting was June 3, 2019. The Health Policy Institute of Ohio convened the committee on behalf of the OSU College of Nursing Helene Fuld Health Trust National Institute for Evidence-Based Practice in Nursing and Healthcare. The purpose of this committee is to "inform development of a policy brief that explores research on and identifies evidence-informed provider workforce staffing practices and state-level policies that contribute to improved patient safety in clinical care settings." So, we already have ORC 3727.51 that requires safe staffing committees as well as now a committee that is exploring evidence-based staffing practices, so why is HB144 necessary, we ask?

It is for these reasons that the Ohio Hospital Association has taken an opposition stand on proposed HB144.

Thank you again for the opportunity to testify. I would be happy to answer any questions the committee may have.