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H.B. 163
134th General Assembly

Bill Analysis

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Version: As Reported by House Commerce and Labor

Primary Sponsors: Reps. Cutrona and Sweeney

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SUMMARY

- Prohibits a hospital from requiring a nurse to work beyond the nurse's shift as a condition of continued employment except in certain urgent circumstances or during ongoing medical treatment or a surgical procedure.

DETAILED ANALYSIS

Nurse overtime

Prohibited conduct

Subject to the exceptions discussed below, the bill prohibits a hospital from requiring a registered nurse or licensed practical nurse to work overtime as a condition of continued employment.¹ The bill defines "overtime" as an amount of time that is worked in excess of the shift of a registered nurse or licensed practical nurse and to which both of the following apply:

- The nurse first receives notice during the shift that the nurse will be required to work in excess of the shift.
- The excess work must be performed immediately after the nurse's shift is scheduled to end.

"Shift" is defined as a specific period of time a registered nurse or licensed practical nurse is required to work in a 24-hour period that has been scheduled in advance by a hospital.²

Under the bill, a hospital may not do either of the following solely because a nurse chooses not to work overtime:

¹ R.C. 3727.58(B).

² R.C. 3727.58(A).

1. Terminate or propose to terminate the nurse's employment;
2. Take or propose to take disciplinary or retaliatory action against the nurse.³

Exceptions

The bill's overtime prohibition does not prohibit a nurse from voluntarily working overtime or a hospital from offering overtime or permitting a nurse to work overtime when the nurse chooses. Nor does it prohibit a hospital from maintaining a predetermined schedule under which a nurse is in on-call status or from causing a nurse to be summoned to work while in on-call status.

The bill also does not prohibit a hospital from requesting or scheduling a nurse to work overtime in any of the following circumstances:

1. **Health care disasters** – A health care disaster, such as a natural or other disaster that increases the need for health care personnel, unexpectedly affects the hospital's service area.
2. **Emergency declarations** – A federal, state, or county declaration of emergency is in effect in the hospital's service area.
3. **Emergencies, unforeseen events, and influx of patients** – There is an emergency, unforeseen event, or influx of patients that (a) results in patient care needs beyond reasonable, predictable levels, (b) increases the need for health care personnel at the hospital to provide safe patient care, and (c) could not reasonably be anticipated by the hospital.
4. **Ongoing medical or surgical procedures** – The nurse is actively engaged in ongoing medical treatment or a surgical procedure and the nurse's continued presence through completion of the treatment or procedure is necessary to ensure the patient's health and safety.⁴

Nursing services staffing plans

Current law requires each hospital to create an evidence-based, written nursing services staffing plan to guide the assignment of nurses hospital-wide. The bill requires those staffing plans to be consistent with its requirements.⁵

³ R.C. 3727.58(B).

⁴ R.C. 3727.58(C).

⁵ R.C. 3727.53(B).

HISTORY

Action	Date
Introduced	03-02-21
Reported, H. Commerce and Labor	04-22-21
