

WISCONSIN HOSPITAL ASSOCIATION, INC.



To: Members of the Legislature

From: Judy Warmuth, RN and VP Workforce Development
Paul Merline, VP Government Relations

Date: February 26, 2009

RE: LRBs 2220/1 (Assembly) and 2145/2 (Senate) - Prohibiting Mandatory Overtime

Wisconsin's hospitals are strongly committed to improving patient safety. This is demonstrated by our nationally recognized public reporting initiatives and many ongoing collaborations with diverse stakeholders. Our goal is to strike the appropriate balance between safety, quality and effective/available care. And while we share the authors' concerns about fatigue and its impact on patient safety, **WHA opposes LRBs 2220/1 and 2145/2.**

The proposals will prohibit the use of mandatory overtime except under extremely rare circumstances, including:

- An emergency declared by the President of the United State, the Governor of Wisconsin or local governments, but only if the health care facility has first exhausted all other options.
- An unavoidable or unanticipated "disaster" that increases the need for health care workers, but only if the health care facility has first exhausted all other options.
- If a health care worker is actively engaged in an ongoing surgical or medical procedure and is essential to the health and safety of the patient.

The bill places severe restrictions on the ability of Wisconsin hospitals to provide safe and responsive care to our patients under other challenging, and more common, circumstances.

In the 24/7/365 hospital environment, staffing is a complicated and time-consuming process. Matching the number, skill and experience of staff to the number, need and complexity of patients is done on a shift-by-shift basis. This can be particularly difficult during emergencies, times of high patient demand or unexpected staff absences. Consider the following situations not addressed by LRBs 2220/1 and 2145/2:

- Unexpected Spikes in Hospital Admissions: When hospitals are presented with many more patients than expected or anticipated (e.g. a very large number of women in labor, unexpected surge in chest pain/cardiac emergency patients, an ER overwhelmed with trauma patients), they must have the staffing tools necessary to assure their care. Patients often require nurses with specific knowledge and skills, or simply more nurses than are present or available for a particular shift. Under this legislation, if additional nurses, particularly those with the needed specialty knowledge and skill, could not be found to care for an unpredicted rise in need, the hospital would be unable to require nurses, already in the facility, to stay and care for these patients.
- Unplanned Absences from Work: When a significant number of employees call in sick, are unable to come in due to poor weather, or for any other reason do not report to work, a hospital is left short staffed. But the hospital has patients already under care, and must meet their needs. LRBs 2220/1 and 2145/2 make no exceptions for unexpected/unpredictable staff absences.

- On-Call Hours Would be Severely Restricted: Most operating rooms, post-anesthesia care units (PACUs) and cardiac catheterization labs provide care during evenings and nights to emergency patients based on an on-call system. This call is above the scheduled in-person shifts. LRBs 2220/1 and 2145/2 would prohibit this practice, leaving hospitals without the ability to assure off-hour care for patients who present with urgent and emergent needs.

To address these and other situations unique to hospital care, hospitals deploy many strategies, including creating flex positions, on-call staff pools, and using outside staffing agencies. Staff are also asked to volunteer for additional hours when circumstances dictate. *On the rare occasions when these mechanisms cannot meet patient care needs, the ability to require staff to stay beyond a normal shift may be necessary. Removing this option will place patients and their access to care at risk.* If adequate staffing cannot be ensured, it may be necessary to turn patients away, limit access to the emergency room and delay procedures and care.

WHA shares the authors' concerns about patient safety and their commitment to improving care and reducing fatigue. WHA supports constructive dialogue aimed at finding evidence-based strategies that address fatigue while assuring patients are cared for by staff that have not worked long hours, have had adequate time between shifts or second jobs and can come to work rested, alert and safe. We believe LRBs 2220/1 and 2145/2 fall short of the comprehensive solutions necessary to achieve these goals and that involve all stakeholders.

If you have any questions or need additional information, please do not hesitate to contact us at (608) 274-1820.