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PSNA
Pennsylvania State
Nurses Association

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**COMMENTS OF PA STATE NURSES ASSOCIATION
ON PROPOSED REGULATION OF THE DEPARTMENT OF
LABOR AND INDUSTRY (ID NO. 12-91; IRRC NO. 2957)**

RE: PROHIBITION OF EXCESSIVE OVERTIME IN HEALTH CARE ACT

I. INTRODUCTION

Pennsylvania State Nurses Association (PSNA) is a statewide organization representing the professional interests of Pennsylvania's 212,000 registered nurses and associated health interests of the patients we serve. Mandatory overtime is one of the many workplace issues that may be contributing to nurses leaving the workforce. Concern for the long term effects of overtime leading to fatigue include potential for diminished quality of care, errors or near misses, as well as the negative impact on the care-givers health. Research indicates that risks of making an error are significantly increased when work shifts are longer than 12 hours, when nurses worked overtime, or when they worked more than 40 hours per week. Other industries have been aware for many years of the links between fatigue and accidents, mistakes, errors and near errors. For instance, the airline and trucking industries limit the number of hour's pilots and truck drivers can fly/drive. They also require a certain number of hours between "flights" or "runs". By virtue of licensure, nurses are responsible and accountable for their decisions, actions and/ or inactions. By removing the ability of the nurse to determine fitness for duty, patient safety is not only jeopardized but so is the nurse's ability to fulfill their legal obligations of licensure. The American Nurses Association (ANA) and PSNA have taken the position that regardless of the number of hours worked, each registered nurse has an ethical responsibility to carefully consider his/her level of fatigue when deciding to accept any assignment extending beyond the regularly scheduled work day or week, including mandatory or voluntary overtime assignment.

PSNA recommends the following changes for inclusion within the draft regulations to Act 102 of 2007.

II. COMMENTS ON THE PROPOSED REGULATIONS

A. The Specific Regulations Proposed

For ease of reference our comment are in boldface type.

§ 225.3. Complaint and investigation procedure

(a) This proposed rule is deficient in that it contains no reference to *when* the Bureau will begin to investigate alleged violations of the Act. **PSNA recommends a timeframe of sixty (60) days be established. This sets a reasonable expectation to begin an investigation of violations of the Act. This timeframe also brings this provision into alignment with the other provisions of the proposed regulations in terms of required timeframes.**

§ 225.4. Administrative penalties.

(3) In cases where the bureau requests additional information from a facility, **PSNA recommends a timeframe be established that the facility shall comply within thirty (30) working days.**

§ 225.5. Administrative notice of violation and proposed penalty

(a) There is no timeframe established for the *completion* of the investigation. Our experience is that complaints languish. **PSNA recommends a timeframe of two (2) years from the filing of the complaint with an additional provision for failure to meet such a timeframe; and, the Secretary of the Department shall be notified that timeframe was not achieved and shall issue a letter as described in this section.**

§ 225.6. Contesting an administrative decision and proposed penalty

(e) This section provides that the filing of a request for a hearing by employer stays the administrative decision on the violation and the proposed penalties. **PSNA recommends establishing a timeframe of two (2) years for holding a hearing or issuing a decision with an additional provision for failure to meet such a timeframe; and, the Secretary of the Department shall be notified that timeframe was not achieved and shall issue a letter within ten (10) working days to the employer and complainant.**

§ 225.7. Hearing

(a) There is no timeframe set for the bureau to *schedule* a hearing or *appoint* a hearing officer. This presents another opportunity for delays. **PSNA recommends a timeframe of one hundred twenty (120) days.**

(b) **PSNA requests that a definition of “party” be created and that the definition of “party” include the employee and or complainants. PSNA recommends using consistent language when describing parties, petitioners and complainants.**

§ 225.9. Adjudications

(a) There is no time set for the *issuance of this adjudication*, which could result in undue delay. **Therefore, PSNA suggests a timeframe of two (2) years be established for a hearing or issuing a decision; and, an additional provision of failure to meet such a timeframe the Secretary of the Department shall be notified that timeframe was not achieved and shall issue a letter within ten (10) working days.**

CONCLUSION

We respectfully urge the IRRC, House and Senate Labor and Industry committees to carefully consider the comments set forth above. The amended proposed regulations, at present, are a step in the right direction and with the above suggested changes can better achieve the purpose of this law.

Thank you for the opportunity to submit our recommendations.

Regards,

A handwritten signature in black ink that reads "Betsy M. Snook". The signature is written in a cursive, flowing style.

Betsy M. Snook, MEd, BSN, RN
Chief Executive Officer
Pennsylvania State Nurses Association

Dated: February 1, 2014