

Numerous other provisions in HFS 124 mandate the presence of health care workers, as that term is defined in the bill. The following is an incomplete listing of these requirements, intended to illustrate the pervasive mandates that hospitals must meet regarding adequate staffing:

- “Appropriate administrative staffing of the nursing service shall be provided on all shifts.”<sup>3</sup>
- “A registered nurse shall be immediately available to give direct patient care when needed.”<sup>4</sup>
- “There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the services of a registered nurse.”<sup>5</sup>
- “Every patient admitted in labor shall be assessed initially by a registered nurse. There shall be a circulating nurse at every infant delivery.”<sup>6</sup>
- “A [radiologic] technologist shall be on duty or on call at all times.”<sup>7</sup>
- “The labor, delivery, postpartum and nursery areas of maternity units shall have available the continuous services and supervision of a registered nurse for whom there shall be documentation of qualifications to care for women and infants during labor, delivery and in the postpartum period.”<sup>8</sup>

Meeting these (and other) staffing requirements mandated by the hospital licensing rules may, in rare situations, mean that hospitals are forced to order mandatory overtime that would be barred by the bill. The bill, as currently drafted, is in conflict with the hospital licensing rules.

**Emergency Exception.** The bill contains an exception that allows the use of mandatory overtime “in cases of unforeseeable emergency in which a health care facility has first exhausted all other options.” As currently drafted, this provision creates only a vanishingly small exception that may, as a practical matter, be non-existent.

First, the exception applies only in “emergencies,” an undefined term, the meaning of which is by no means obvious in this context. Vague, undefined terms in statutes create uncertainty about the scope of the exception, which in turn creates a chilling effect.

---

<sup>3</sup> HFS 124.13(1)(b).

<sup>4</sup> HFS 124.13(2)(a)1.

<sup>5</sup> HFS 124.13(2)(b)2.c.

<sup>6</sup> HFS 124.13(7)(b).

<sup>7</sup> HFS 124.18(1)(d)4.

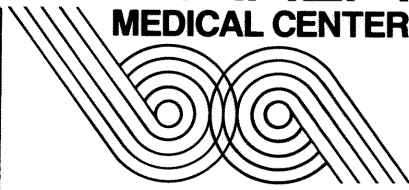
<sup>8</sup> HFS 124.20(5)(g)1.

Second, and perhaps more seriously, the exception applies only in those emergencies that are "unforeseeable." This reduces the already uncertain class of emergencies to almost nothing because very few emergencies are unforeseeable. Once a situation has happened once, then by definition it is not unforeseeable from then on. Thus, the recent flu epidemics in Milwaukee, which strained hospital capacity, would not qualify as "unforeseeable" emergencies, and hospitals would not be allowed to require mandatory overtime to staff such epidemics in the future. Further, the emergency services infrastructure develops and trains for any number of emergencies, ranging from train wrecks to terrorist attacks. Any event or circumstance that is covered by a contingency plan or training exercise would not qualify as an unforeseeable emergency.

Finally, the bill requires that hospitals exhaust all other options, even in unforeseeable emergencies, before requiring mandatory overtime. It is, of course, impractical if not impossible to exhaust **all** other options.

Taken together, the uncertain scope of the term "emergency," the requirement that the emergency be "unforeseeable," and the requirement that hospitals exhaust "all other options," means that the emergency exception will be unavailable as a practical matter. As drafted, the bill imposes an absolute ban on mandatory overtime, with no real exception for emergencies or other situations.

# BAY AREA MEDICAL CENTER



August 31, 2001

Senator Dave Hansen  
Wisconsin State Senate  
P.O. Box 7882  
Madison, WI 53707-7882  
FAX: 608-267-6791

Dear Senator Hansen:

It was a pleasure meeting and talking with you at our Center for Outpatient Services here in Marinette a few weeks ago. You will be pleased to hear that everything is running very smoothly and the improvements in patient care we hoped would come from this expansion are being realized.

I know that healthcare is an area in which you take a great deal of interest, and I understand you will be holding a hearing in Janesville on September 4. Although I will not be able to attend in person, I wanted to give you my thoughts on the issue of mandatory overtime and its root cause—work force shortages.

First of all, I strongly support taking the necessary steps that will allow Bay Area Medical Center, as well as every other hospital in Wisconsin, to eliminate the need for mandatory overtime. As an organization, we are committed to efficient and effective use of our resources, and overtime is an area our managers watch very closely. As a matter of good business practice, overtime is almost always an inefficient way to staff.

Regardless of our desire for effective resource management, it never supercedes our commitment to patient care and safety. It is woven into our mission, our culture and our values as an organization. But, to put it simply, if we don't have staff, we can't care for patients. During this time of near crisis-level work force shortages in Wisconsin, mandatory overtime is a critical short-term tool which allows us to balance our staffing to ensure that the quality of care for our community is not jeopardized.

I do not believe that an across-the-board, inflexible mandate is the best way to resolve this issue. I would strongly urge you to consider not holding a vote on mandatory overtime. I do not believe it would work for the benefit of the patients, the nurses, the hospital, or our community.

Senator Dave Hansen

August 31, 2001

Page 2

---

Instead, we should be focusing on better understanding the issues and the potential solutions to the work force shortages confronting every health care organization in your district and this state. If, at a later time, you would like to meet and talk with me and those members of my staff who wrestle with staffing shortages daily, I would be glad to accommodate you. I believe we would all learn a great deal from such an exchange.

Thank you for your consideration, Senator.

Sincerely,



David A. Olson  
President and CEO

DAO:kan

I am a Wisconsin licensed  
Registered Nurse

Also,

I am a Marine (Paris Island),  
and a journeyman tool & die maker.

Previously, I have worked,

in the construction industry  
(as a "hands-on" contractor  
digging trenches & climbing  
utility poles to place  
underground & overhead lines)

and in the heavy, machine tool  
industry.

I have worked as a railroad  
section hand, pulling & replacing  
ties, lifting and setting rail.

In a man's world, I have been  
in, what would generally be  
considered, tough, demanding,  
rigorous occupations.

As a registered nurse, I have worked as:

1. a staff nurse in acute & long-term care;
2. a unit manager
3. and clinical site coordinator.

\* Not at any level, nor in any previous occupational experience, have I worked as hard, & such a level of responsibility and accountability, as I have worked as a staff nurse.

I am here, this afternoon, to speak in support of Senator Robson's bill.

I have worked as a staff nurse in mandatory systems, that 2<sup>nd</sup> 8<sup>o</sup> shift is not, cannot, be completed with the same freshness, energy & focus brought to the first shift.

Sen. Robson has expressed her concern about patients and safety . . .

\* a nurse, working at the 14th, 15th, or 16th hour - and who may be required to return to work in less than 8 hours - cannot bring the same quality of care to his/her patients,

cannot provide for pt. safety, as a nurse who is fresh, is properly rested.

Sen. Robson's concern for pt. safety in such circumstances is more than justified.

Additionally, there must be concern for the safety of the nurse caregiver.

Nsq practice is driven by our own association standards, policy & procedure of the healthcare provider, Codes & Statutes Governing the Practice.

of Nursing, State and Federal Regulation.

The responsibility, <sup>and</sup> accountability, ~~the~~ the professional nurse brings to practice is enormous.

Yet, none of the regulatory requirements accepted and assumed by the professional nurse are relaxed at the 14th, 15th, or 16th hour

nor are the expectations for... the right of the patient, to expect, quality care...

nor should they be!

but, mandation is not an answer.

Sen. Robson has expressed her concern that "mandatory OT contributes to burnout and it contributes to the nsg shortage."



I am an independent provider of nsg services . . . I no longer have to deal with short/inadequate staffing; to deal with mandatory OT.

As I evolved into this new venue of practice, I discovered that 7 friends and colleagues have recently become independent providers

That is 8 Wisconsin licensed Registered Nurses no longer available for institutional staffing

That is enough Registered Nurses to provide 24/7 staffing, per regulatory requirement, for a facility providing care for up to 100 residents.

Critics of this bill have suggested that the problem is a nsg shortage,

and,

that the bill addresses only a symptom of that shortage.

I strongly disagree.

\* Rather, this bill mandates that health care providers no longer react to the nsg shortage at a symptomatic level . . . .

which places a preponderance of responsibility on nursing . . .

and post pones real prob solving . .

\* and compels them to invest their energies & resources into the discovery of creative staffing solutions.

Permit me to provide one example from my own experience:

1. assumed nsg management of a unit
2. which was 62% agency staffed
3. reviewed efforts of recruitment
4. more importantly, renewed effort directed at retention.
5. developed a well-paid on-call system & the full cooperation of the professional nsg staff.
6. & renewed effort invested in retention, we achieved full staffing, and, with the cooperation of nursing, precluded the use of measures such as mandatory OT to maintain full staffing.

Given the opportunity, professional nsg will work w administration to develop creative, safe, staffing solutions.

\* Another critic of this bill - apparently widely quoted - has said . . .

"But from the patient's point of view, would you want to see the nsg staff walk past you on their way home when you are waiting for medical help?"

As a professional nurse who has shared 100's of hours of voluntary OT w colleagues in order to meet the needs of our pts . . . I find this remark profoundly insulting.

As a member of the public constituency served by the organization this critic represents, I find profoundly

9.

objectionable an inflammatory remark, which I believe to be construed to adversely stimulate public emotion,

but which contributes little information to the essential reality of the problem.

In response to this critic, may I paraphrase her remarks concerning this bill . . .

"Your criticism misses the point . . . it doesn't (really) address the problem at all . . ."

I realize it is difficult to legislate matters that essentially become ethical & moral in nature . . .

however,

when a health care provider doesn't act in the best interest of pt's & staff by providing adequate & safe staffing,

then we are obligated to act legislatively

mandatory OT does not provide optimally safe staffing . . .

Yes, there is a shortage of professional nurses . . .

and in the absence of px focused interventions resulting in improvement of working conditions, & increased reasonability of expectation,

fewer will enter our profession, & more will leave.

In closing, may I add —  
brief comments:

1. I trust in the integrity & intent of your inquiry.

May I ask that you significantly add to the body of knowledge you are accumulating by each, individually, spending a shift shadowing a professional nurse . . . .

walk a mile in our shoes.

2. Please consider, that this bill address an issue fundamental to quality, safe pt. care . . . that is . . . safe staffing.

We've mentioned policy & procedure Codes & Statutes Governing the Practice of Nsg, State and Federal Regulations . . . .

but when it comes to quality,  
safe pt care . . . .

we don't need legal diatribe  
or rabbinical didactic . . .

it is, simply, give each and  
every pt in your care . . . .

the care you would want  
your mother to have .

And I ask, do you want your  
mother cared for by a nurse  
at the 14th, 15th, or 16th hour  
of a mandated shift.

3. Finally, Rep. Johnson and  
Sen. Robson, thank you for  
introducing this bill . . . .

thank you for refocusing  
attention away from a symptom  
and onto the problem.

Your effort is right on the  
point and moves us significantly  
forward in addressing the problem.



**TESTIMONY OF MIKE STAUB**  
**IN SUPPORT OF SENATE BILL # 211**

**Before the**  
**SENATE LABOR AND AGRICULTURE COMMITTEE**

**September 4, 2001**

Thank you for allowing me the opportunity to testify in support of the ban on mandatory overtime except in unforeseen emergencies. Most specifically, my greatest concern revolves around overtime for nurses who are being held over for additional shifts in order to fill known scheduling vacancies. It is my contention to make all of you fully aware that holding nurses over to work twelve, sixteen or more hours will never be the honest and right solution to the problems in our health care facilities today!! The solution lies in proper management and scheduling of human resources in our health care facilities. Mandatory overtime does nothing more than make an already sick health care system sicker.

In addition, I want to bring to your attention the fact that holding nurses over forces incredible hardship on the nurse and those in his or her family. Imagine having your children waiting for you to pick them up at day care and then suddenly being informed that you are being 'forced' to work another four or eight hour shift. Imagine you haven't had any lunch or break during your shift because your unit was understaffed and you couldn't get away to do so. Further, imagine if you or one of your loved ones was under the care of that held-over, tired nurse...Are you beginning to feel the way I'm feeling and thinking right now...I'm sure you get the picture. This is not the way to staff our hospitals. Our patients and the community deserve better.

Let me add that long worked hours under stress make perfect conditions for diminished thinking capacity that potentially could seriously affect reaction time and decision making, thus placing our patients at risk and my license to practice in jeopardy. Fatigue is a major factor in mistakes made in our hospitals. Many of my colleagues are leaving the profession because of the risks. No nurse wants to be put in a situation where they could make a mistake that causes their patient to be seriously hurt or, worse yet, die. I got into this profession so I could save lives and provide the best possible health care for my community.

At UW Hospital where I work, mandatory overtime has become a mode to staff many of our units. My colleagues have told me about units where the schedule is posted with so many unfilled shifts that many shifts have only one UW nurse for the entire unit. This same UW nurse then must work with various agency staff, who know nothing about the unit or the patients. And if this same nurse is then forced over for another shift, the risks to patient care greatly increase.

In closing, I want to challenge each one of you as you make critical decisions that will drastically affect the present and future of our state and ultimately our nation's health care. I urge you to take a strong stand in supporting a ban against mandatory overtime for Wisconsin's caring nurses. Thank you for your time and concern.

Michael J Staub, RN MS  
UW Hospital Rehab Unit  
608-756-4680

Chair  
Theresa H. Richards  
Marshfield  
Chair Elect  
Rexford W. Titus, III  
Waukesha  
Immediate Past Chair  
William D. Petasnick  
Milwaukee

September 4, 2001

**Senate Bill 211  
Ban on Mandatory Overtime**

Dear Members, Senate Committee on Labor and Agriculture:

Legislation prohibiting the use of mandatory overtime by health care facilities is currently under consideration in your committee. **The Wisconsin Health and Hospital Association (WHA) and the Wisconsin Organization of Nurse Executives (W-ONE) strongly urge you not to advance this bill.**

As nurses, we are committed to delivering professional and compassionate care to patients and their families in our facilities 365 days a year, 24 hours a day. As administrators, we are constantly balancing the need to care for our nurses as well as for our patients. Our nurses are a valued and valuable resource.

We also recognize that nurses and hospitals hold a shared commitment to provide the highest in quality care and to protect patient safety. Faced with a tight supply of nurses and an unpredictable demand for services, occasional mandatory overtime gives hospitals a necessary tool to balance the needs of patients for expert care with the needs of nurses for rewarding and manageable work lives. In a way, mandatory overtime is occasionally necessary because there is no substitute for the care provided by our nurses.

Mandatory overtime is used to protect patients. WHA and W-ONE, and the members we represent, share everyone's desire to minimize the use of overtime. Hospitals do not use overtime unless it is necessary to protect patients and provide quality care. Hospitals do not use overtime to facilitate short-staffing; we actively seek to recruit and retain nurses, not reduce our nursing staffs. Mandatory overtime is used only as a last resort, in response to unforeseeable situations where there is no alternative.

Hospitals use a number of techniques to ensure adequate staffing for patient care before they resort to overtime, including using voluntary "on-call" nurses who voluntarily sign up to be ready to work if a unit suddenly needs help, or allowing nurses who work in a given area to participate in the scheduling process. In a time of growing health care worker shortages, there are times when mandatory overtime must be used to maintain safe staffing levels. We must be creative, flexible, and willing to adapt to an ever-changing and unpredictable environment. We will continue to work with our staffs to balance their needs with the demands of patient care.

The proponents of this bill claim that a tired nurse on mandatory overtime is not as good a caregiver as a rested nurse. This comparison is misguided; hospitals do not use mandatory overtime when there are



Wisconsin Health &  
Hospital Association, Inc.

5721 Odana Road  
Madison, WI  
53719-1289

608/274-1820

FAX: 608/274-8554

<http://www.wha.org>

**rested nurses ready to cover that shift. Hospitals use mandatory overtime only when the choice is a nurse on mandatory overtime, or no nurse at all.**

**There can be little doubt that, given this choice (the real choice posed by mandatory overtime situations), having a nurse on the floor is better for the patients than having no nurse at all. The "emergency" provisions of the bill will not alleviate this problem. The exception for emergencies in the bill is drafted so narrowly that, as a practical matter, it is functionally meaningless, and subjective in nature. As a staffing challenge emerges, hospitals need to be able to focus on how best to provide quality care for their patients and not on interpreting a nebulous statutory phrase.**

In principle, no "emergency" exception can be created that does not place patient care at risk, because the majority of mandatory overtime stems from "non-emergency" factors that are difficult if not impossible to predict. They include:

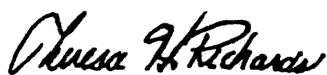
- The ongoing unpredictability of non-elective patient admissions;
- Unexpected problems many nurses may encounter, such as illness or family demands; and
- The impact of widespread illness such as the 2000 flu epidemic that can cause demand for services to fluctuate abnormally.

**Mandatory overtime is a symptom of a larger problem, which is the escalating shortage of health care workers in this state.** Demographic trends indicate that Wisconsin is on the brink of a severe health care workforce shortage. Wisconsin's population is aging, which will drive up demand for health care services. The health care workforce is also approaching retirement.

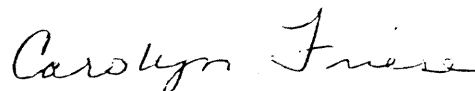
The solution to this problem is clearly a concerted effort to find long-and short-term ways to increase the supply of nurses in Wisconsin. WHA and W-ONE is ready and willing to work with the Wisconsin Legislature on concerted approaches to enhance the attractiveness of health care careers and to develop the educational and training resources Wisconsin needs.

Were mandatory overtime limitations to become law in Wisconsin, it would place hospitals and other health care facilities in impossible situations. Health care providers cannot and will not abandon patients or turn our backs on need. The mandatory overtime bill would deny health care providers the flexibility to determine work schedules and options that are appropriate to their particular facility and best serve patients.

Thank you for your consideration.



Terri Richards, RN  
WHA Board Chairperson  
Executive Vice President  
St. Joseph's Hospital, Marshfield, WI



Carolyn Friese, RN  
President of Wisconsin Organization  
of Nurse Executives (W-ONE)  
St. Vincent Hospital, Green Bay, WI

## Issue Paper: Mandatory Nursing Overtime at Meriter Health Services

### Background

- The use of mandatory overtime is **very infrequent** at Meriter Hospital in Madison. Among registered nurses (RNs), mandatory overtime accounts for approximately 0.4% of all hours worked in a given year. Overtime needs are first filled through voluntarily or flexible/mobile pool staffing arrangements – only when these methods fall short does Meriter resort to mandatory overtime.
- Meriter Hospital management **agrees with its nurses** that mandatory overtime is undesirable. Mandating staff is costly (in terms of shift premium pay) and leads to morale and fatigue problems. As a result, Meriter and its nurses' union agreed (in the March 2001 contract) to collaboratively explore ways to minimize – **and eventually eliminate** – mandatory overtime.

### Efforts to Minimize Mandatory Overtime

- Meriter and its nurses' union are pursuing the following strategies on mandatory overtime:
  - **Limit mandates.** No RN can be mandated more than eight hours, or more than two times, within any 14-day period.
  - **Limit shift hours.** No RN can be required to work more than 16 consecutive hours.
  - **“Fatigue factor.”** Any RN who works a 16-hour consecutive shift gets the next day off (unless they desire to work). RNs who work shifts between 12 and 16 hours get the choice of the next day off, an adjusted start time for the next shift, or the regular start time.
  - **Flexible staffing options.** Meriter is implementing new weekender, variable full-time equivalent and unit/cluster based staffing to improve its “flexing” options.
- **Meriter and its nurses' union are working collaboratively** to implement these contract provisions. Union and management representatives work together on a hospital-wide oversight committee, and on unit-based committees, to broaden the decision-making roles and accountability.

### Challenges Remain

- But...eliminating mandatory overtime **cannot happen overnight**. There are two key challenges:
- **Large swings in the census.** Patient levels can change rapidly and unexpectedly due to factors beyond hospital management's control. During a one-hour period in 2001, for example, 14 women arrived at Meriter in labor at the same time. **Patient care cannot be compromised** in these situations, and management must have flexibility to provide needed staffing on the units.
- **Nursing shortage.** As the nursing shortage continues to worsen, and the demand for health care continues to increase, hospitals face tremendous challenges to recruit and retain enough skilled professionals. Innovative scheduling options alone cannot fully solve this problem.



**DISTRICT 1199W/UNITED PROFESSIONALS FOR QUALITY HEALTH CARE**  
Affiliated with Service Employees International Union, AFL-CIO, CLC

2001 W. BELTLINE HIGHWAY, SUITE 201  
MADISON, WISCONSIN 53713-2366  
(608) 277-1199 FAX (608) 270-2025 TOLL FREE (888) 285-1199

*UNITED PROFESSIONALS, LEADING THE WAY TO QUALITY HEALTH CARE*

**TESTIMONY OF BONNIE STRAUSS**  
**IN SUPPORT OF SENATE BILL # 211**

**Before the**  
**SENATE LABOR AND AGRICULTURE COMMITTEE**

**September 4, 2001**

As the Union Staff Representative for SEIU District 1199W/UP representing 550 nurses at Meriter Hospital in Madison and 1,100 nurses and 100 health care professionals at the University of Wisconsin Hospitals and Clinics Authority (UWHCA), I am keenly aware of the effects mandatory overtime has had on the quality of patient care in our health care facilities.

In the year 2000, according to Meriter hospital there were 477 mandatory overtime shifts worked. In the same year, according to UWHCA, there were 2,598 mandatory overtime shifts worked. Unfortunately, these reported statistics are only the tip of the iceberg. Our nurses know from personal experience that the statistics kept by the hospitals are inaccurate and misleading. If hospitals were to accurately report, the hospitals would be forced to admit that mandatory overtime has become a crutch for the industry. Let's take UW Hospital's statistics for example. UWHCA has said that mandatory overtime is not as problematic as our Union would like to assert. They point to their statistic that the most any nurse was held over was six times in the year 2000. At the bargaining table, we proposed to limit mandatory overtime shifts to once in a 30 day period. We felt this was appropriate given their statistic. The once in a 30 day period would allow management 12 mandated shifts per nurse per year. Seems more than reasonable given their statistics, right? Wrong, according to UWHCA, we were told this was unreasonable and would render it impossible for them to staff their units. Translation: UWHCA's reported statistics are wrong and they know it.

During the last fifteen years of working in the health and human services industry, I have encountered only one hospital management willing to admit across the bargaining table that mandatory overtime was the easiest solution to filling the holes in posted schedules and had become a crutch for the hospital. By using mandatory overtime, the hospital did not have to expend the time and efforts of their management staff to come up with other ways of filling the shifts. They knew there would be a warm body from the shift before that could easily be mandated to cover the next open shift.

So as hospitals all over this country downsized their nursing staff over the last ten years, the prevalence and misuse of mandatory overtime became more and more rampant in the industry. Efforts to downplay the effects by the hospital industry have resulted in more and more hospitals using mandatory overtime as the preferred way to fill staffing holes. The effects of mandatory overtime on the quality of patient care and the nursing staff have been evident in the increase in medical errors in hospitals and the inability to retain nursing staff in acute care hospital facilities.

Unfortunately, now the same hospital industry is telling us that mandatory overtime is the solution to the understaffing in their facilities. This is the same industry that used it to create the crisis. Our nurses know from experience that it is the mandatory overtime that has caused their colleagues to leave acute care for other type care facilities or the profession entirely. UW Hospital for example instituted an inpatient differential in 1999 to try to stop the flight of experienced nurses from inpatient to outpatient clinics where mandatory overtime was either rare or nonexistent. The differential has had no major effect on the situation. Why? Because mandatory overtime is still driving nurses from the inpatient facility to other care facilities and out of the profession.

One nurse recently told me that she was leaving UW Hospital because she could no longer bear the overtime shifts and the effect these shifts had on the patients and her family life. At the time that we talked this nurse told me that the last three weekends she had been held over for at least one shift each weekend. Her seven year old daughter had just asked her on Saturday night whether or not she was going to come home and go to church with her family in the morning. When she told her daughter she didn't know, her daughter asked her if she didn't like to go to church with her anymore. The mother who is a very dedicated long-term nurse told me how awful she felt about what her very young daughter had said to her. When this nurse was held over on that Sunday morning, she couldn't get her daughter's words out of her head and felt very distracted during the mandated shift. She also reported that, due to understaffing on the mandated shift, this nurse worked 16 straight hours without lunch, break and only a couple of bathroom breaks. This nurse felt her ability to provide quality care was severely diminished by the stress on the unit and the stress on her family. She told me she just couldn't do it anymore. Despite my efforts to talk her into staying and trying to come up with other solutions to help her to stay, she has left and gone to a clinic outside of the UW Health system.

Unfortunately, this is not an isolated incident. During the last year that I have been a Union staff representative for SEIU, I have had many, many similar type discussions with nurses grappling with the decision to stay or leave. Unfortunately, of those I have personally talked to, most left the hospital either to some clinic facility or out of the profession. A new report from the corporate credit rating firm of Fitch IBCA, Duff & Philips confirms registered nurses are abandoning the field because of fundamental dissatisfaction with working conditions. We can't, as a society, allow this to continue.

What can we do to stop this flight? We need to make fundamental changes to the working conditions in hospitals, retain our current nurses, and bring back those who have left. Banning mandatory overtime except in unforeseen emergencies is the first major step our state legislature can take. By passing this legislation, our state will force the hospital industry to effectively deal with the number one major reason nurses are leaving hospitals. The hospital industry would

have you believe that this legislation would be bad for the patients. Quite the contrary, by banning mandatory overtime, patients will receive care from fresh, sharp and rested caregivers, who can provide the best possible care and make the best and quickest decisions in emergencies.

There are many hospitals that have clearly made a commitment to reduce and eliminate mandatory overtime shifts. The efforts of these progressive thinking and appropriate acting hospitals will not be hurt in any way by this legislation. However, there are far too many hospitals that say they are committed and do nothing to meet that commitment. These hospitals are the target of this legislation and unfortunately provide the reason for this legislation to be a necessity. The hospital industry has had a long enough time to straighten this mess out. Those hospitals that have not met their commitment and only gave the commitment lip service need to be held accountable through this legislation. The future of nursing and the trust of our community in the quality of patient care at our hospitals depend on the actions of our state legislature. Please support this important legislation. Thank you for your time.

*Bonita M. Strauss*

Bonita M. Strauss  
SEIU District 1199W/UP  
Union Staff Representative  
608-277-1199  
608-225-3491



# AFSCME®

WISCONSIN OFFICE • 8033 Excelsior Drive, Suite A • Madison, Wisconsin 53717-1903 • Telephone 608/836-6666

**Testimony in Support of Senate Bill 211  
By Beth Smith, AFSCME Council 11  
Tuesday, September 4, 2001, Senate Labor and Agriculture Committee**

Chair Hansen and members of the Committee, thank you for this opportunity to appear before you today to speak on behalf of Senate Bill 211, which limits the hours of mandatory overtime worked by health care employees. My name is Beth Smith, and I represent the American Federation of State, County and Municipal Employees.

Our members work in a variety of health care facilities all over Wisconsin. We believe it is critical that the use of mandatory overtime for health care workers be brought to an end. When people are working too many hours, they become fatigued and are much more prone to error. You need only ask the simple question whether you or someone you love were in a hospital or other health care institution, how you would feel if an overworked staff person were in charge of your medication.

With the shortage of health care workers in Wisconsin daily on the rise, it doesn't make sense to ask people to work longer hours. The quality of care is being jeopardized, and certainly the morale of the employees is lowered when they are asked to work beyond the end of their shift. They should not have to choose between their own family stability and their job.

Health care workers should not be made to feel they might lose their jobs if they don't work excessive hours. Basic decency dictates that health care workers should be treated just as humanely as those who are in their care.

We urge you to look favorably on SB 211 and send it to the full Senate for a vote without delay. Thank you.

---

***in the public service***

---

American Federation of State, County and Municipal Employees, AFL-CIO







**Testimony of Mary Gillies, RN  
Wisconsin State Senate Committee on Labor and Agriculture  
Support for bill to ban mandatory overtime for nurses  
and health care workers**

**Senate Bill 211**

September 4, 2001

To the honorable members of the Senate Labor Committee, thank-you for hearing me today. I am Mary Gillies and have worked as a Registered Nurse in Wisconsin hospitals since 1979. Mandatory overtime is something that I am, unfortunately, all too familiar with. I am a member of the Wisconsin Federation of Nurses and Health Professionals, which has been working very hard to eliminate this hated feature of our profession.

By having management mandate one of us to stay beyond our shift, management is saying, "we don't care if you are exhausted and need to rest or eat. We don't care if your children will be home alone for the next 8 or 10 hours. We don't care if your plans must be cancelled. And we really don't care if you are physically and mentally tired and pose a threat to the patient or have any problems driving home safely."

Mandatory overtime is degrading to nurses and health care workers and dangerously unsafe for patients. I have been forced to work after my shift ended. I have been told that I have to stay to cover the next shift even though I am completely exhausted. I have had to miss birthday parties and baseball games because a manager made me work another shift on top of the one I just worked. I have even fallen asleep at the wheel of my car while driving home from a sixteen-hour shift. Mandatory overtime has made me dread coming into work when I knew shifts were left unfilled.

Mandatory overtime is a dangerous practice that should come to an end. That is why I am here today to ask you for your full support of Senate Bill 211. You have an opportunity to make Wisconsin hospitals and health care facilities safer for patients. No nurse should be forced to care for patients when she is blurry eyed from fatigue and no patient should be forced to receive care from an impaired nurse. SB 211 will go a long way in ensuring safety for patients and fairness for nurses and health care workers in Wisconsin.

Nurses, more than anyone know how important it is to have an alert nurse at the patient's bedside. We are a caring profession and those that go into nursing do so because we are nurturing human beings. We care about our profession and we care deeply about our patients. That's why for years we have volunteered to pick up shifts and fill in where we can to make sure the hospital is adequately staffed. But volunteering to work overtime and being forced to work overtime are two completely different things. As a staff RN, I am responsible for delivering medical and nursing care to my patients. I am not, however, responsible for hiring, firing or deciding how many RN's staff a unit. If management chooses to mandate their existing staff and not to hire additional nurses or to use a RN pool, then I am put in the unlucky position of occasionally becoming an unwilling indentured servant and enslaved by the system.

I'm sure you are well aware of the fact that we are facing a severe nursing shortage. Mandatory overtime does nothing to attract young people to nursing. In fact mandatory overtime is pushing nurses out of the profession they love. Thus forcing us to work mandatory overtime is making a bad situation worse.

No one should be forced against their will to perform live-saving duties when they know they are not rested or alert. This is the same as having a truck driver or airline pilot told to stay behind the wheel for another 8 or 10 hours.

Patient safety is at risk when exhausted nurses and health care workers are forced to care for patients. You might be asking yourself, well why doesn't the nurse simply

refuse to stay if she is too tired to work? You may be surprised to know that a nurse can be fired or face disciplinary action if she refuses to stay. Nurses are very selfless and giving people who work in a very challenging environment. By invoking mandatory overtime on these hardworking people, their life is not their own and their employer can "own" them whenever they feel the need. Slavery was outlawed in 1865.

By supporting Senate Bill 211, you are helping the nursing profession grow up and come clear-eyed and well rested into the new millennium. If airline stewardesses have limits on how many hours they can work, why don't professional nurses and health care workers? With all due respect, the medications I check and administer, the interventions I perform nearly continuously, and the monitoring of critically ill patients, are just as important to the public as are the duties of airline stewards and stewardesses.

Thank you.



**Wisconsin  
Manufacturers  
&  
Commerce**

Memo

TO: Members of Senate Labor and Agriculture Committee  
FROM: John Metcalf, Director, Human Resources Policy  
DATE: September 4, 2001  
RE: Public Hearing on Senate Bill 211 - - Regulation of Hours of Employment by Health Care Workers

**BACKGROUND**

Under current state and federal law, generally, an employer must pay an employee who receives an hourly wage one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours per week. Current state and federal law, however, subject to certain exceptions for child labor, does not prohibit an employer from requiring an employee to work in excess of 40 hours per week.

**SENATE BILL 211**

*Hours of Work Regulated/Overtime Prohibited*

This bill prohibits a health care facility from requiring an employee who is involved in the direct care of patients or residents or in clinical services (health care worker) and who is paid an hourly wage to work for more than a work shift of eight, ten, or twelve hours that has been determined and agreed to before the performance of the work or to work for more than 40 hours per week without the consent of the health care worker.

The prohibition has an exception in cases of "unforeseeable emergency" in which the health care facility has first "exhausted" all other options. These terms are not defined in the bill.

The bill also prohibits a health care facility from discharging or discriminating against a health care worker in promotion, compensation, or in terms, conditions, or privileges of employment for refusing to work overtime for:

- opposing a health care facility's practice of requiring health care workers to work overtime,
- for filing a complaint or attempting to enforce the right of a health care worker to refuse to work overtime,
- for testifying or assisting in any action or proceeding to enforce that right.

*Penalties for Violation*

A health care worker who is discharged or discriminated against in violation of the bill may file a complaint with the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that employment discrimination complaints are processed under current law.

Penalties may include the ordering of back pay, reinstatement, costs, and attorney fees, the remedies currently available under the Wisconsin Fair Employment Act.

In addition, a health care facility that discharges or discriminates against a health care worker in violation of the bill may be required to forfeit not more than \$1,000 for a first violation, not more than \$5,000 for a violation committed

within 12 months of a previous violation, and not more than \$10,000 for a violation committed within 12 months of two or more previous violations. There are no penalties available under the bill for the filing of frivolous complaints.

***Health Care Facility Defined***

For purposes of coverage of the bill, the bill defines a "health care facility" as a hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health center, adult family home, assisted living facility, residential care apartment complex, rural medical center, hospice, mental health treatment facility, public dispensary for the diagnosis and treatment of tuberculosis, facility providing care under a continuing care contract, the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Veterans Home at King, the Southern Wisconsin Veterans Retirement Center, the Mendota Mental Health Institute, the Winnebago Mental Health Institute, the Milwaukee County Mental Health Complex, and the northern, central, and southern centers for the developmentally disabled.

**WMC POSITION - OPPOSE**

Health care providers face severe challenges in recruiting and retaining qualified workers. This legislation will exacerbate that problem, particularly in smaller health care facilities and rural communities.

Further, the "emergency" exception provision is not defined in the bill. Health care facilities face emergency and critical care patient needs on a daily basis, and it is not clear what "other options" the health care facility would be expected to pursue when a lack of qualified applicants for a position results in the scheduling of overtime for current employees.

Long term solutions to the labor shortage must be found to assure worker availability in a variety of career classifications - but especially in the health care field. Legislation recommended by the Legislative Council's Special Study Committee on the Labor Shortage reflects a more positive public policy approach to Wisconsin's labor shortage in general, and specifically to the health care service sector.

For these reasons, Wisconsin Manufacturers & Commerce urges the Committee to **oppose** SB 211.

Hearing September 10, 2001  
Mandatory Overtime

Good afternoon, my name is Dorothy Erdmann, President of Bellin Psychiatric Center and will be speaking on behalf of Bellin Health System.

Thank you for allowing us to address the issue of mandatory overtime. No one wants to mandate, or require, overtime; not hospital administration, not the staff and certainly not patients who want to be sure they get the 24-hour care that is necessary for their health and safety.

As a Health System, Bellin Health does not support the use of mandatory overtime but appreciates the variability of census and unpredictability of individual, family and community health crises that precipitate the need, at certain moments, to expect of staff additional hours of care above their scheduled time to insure patient safety and optimal outcomes. Bellin Health's goal is to insure that all patients needing care have equal access to receive the appropriate services to meet their health care needs.

**Passing legislation to forbid mandatory overtime is like putting a cast on the wrong leg. It doesn't fix the real problem. We can no more legislate overtime than we can plan when accidents happen, when babies are born or when an appendix is about to burst. If this bill passes would you want a nurse to walk out in the middle of an emergency surgery on your child, or step away from the bed of your critically ill mother?**

There are exceptional, emergency situations where staff must be there. We are required by law to provide coverage 24 hours per day, 7 days per week and we have strategies in place to assure an adequate level of staffing, to avoid using mandatory overtime. Some of those strategies are as follows:

- To the best of our ability, we schedule an adequate number of staff in advance, to cover the anticipated number of patients needing care.
- We continuously recruit nursing staff and offer competitive wages and benefits that are appealing for new people to join our organization.
- We maintain a number of staff who are "on-call", or part time, and are available to work extra hours when needed.
- We maintain an active retention program and listen to concerns our staff may bring up with regard to work schedules. And, when possible, we work with employees to provide flexible hours to meet family needs. In fact, Bellin Health prides itself on being a family-friendly place to work.

- When unforeseen emergencies arise and we experience a shortage, we call in our "on-call" nurses or, as a last resort, we ask nurses to "volunteer" to work overtime. They are compensated accordingly for the extra time they work.
- We work among our hospital units to balance the number of patients on each unit, as much as possible, without compromising quality.
- We also share nursing staff across the various units when needed.
- We continually work to be creative and flexible to adapt to emergencies and situations that occur in the healthcare environment.
- We have teams of staff, including nurses, who work on quality improvement projects to continuously find better and more efficient ways to deliver care. By working more efficiently, our staff is striving for maximum efficiency.
- We have one of the best nurse-to-patient ratios in the state of Wisconsin and the country based on a national data base.
- We work cooperatively with our community hospitals to meet patient needs during particularly high volume periods.

We do not feel laws eliminating mandatory overtime are a solution for healthcare. Emergencies happen that mean life or death for patients. We need to do everything possible clinically, ethically and morally to meet the needs of those patients. If we had a natural disaster or crisis in our community could mandatory laws prohibiting overtime cause our health system to crumble?

We need to put our energy, talent, skills, and creativity into developing new ways of staffing our facilities. We need to encourage people to go into healthcare and then continue to create positive programs that keep them challenged and satisfied with their careers.

We urge you to not pass laws governing overtime. Work with us, to make life better for nurses, other healthcare employees, and especially patients.

Dorothy Erdmann, President  
Bellin Psychiatric Center



# DuWayne Johnsrud

---

## State Representative

---

September 17, 2001

Honorable Senator Dave Hansen, Chair  
Members, Senate Committee on Labor and Agriculture  
Inter-departmental

Dear Senator Hansen and Committee on Labor and Agriculture Members,

Senate Bill 211, relating to a ban on non-emergency mandatory overtime for health care workers, is now before your committee for consideration. I respectfully request that you support this bill, and take executive action to bring this bill to the floor of the Senate.

Current law, subject to certain exceptions for child labor, does not prohibit an employer from requiring a health care employee to work in excess of 40 hours per week. Current law also places no restrictions on an employer's ability to force an employee to work past their scheduled shift's end.

This bill prohibits a health care facility from requiring an hourly employee who is involved in the direct care of patients or residents to work for more than their agreed-upon shift or more than 40 hours per week without their consent. This bill would also prohibit a health care facility from discharging or discriminating against a health care worker for refusing to work overtime. Health care facilities would be allowed to use mandatory overtime only in cases of unforeseeable emergency in which the health care facility has first exhausted all other options.


Mandatory overtime is one of the causes of an escalating shortage of health care workers in this state, not a symptom. I've spoken with nurses from my district and all across the state, and they tell me that mandatory overtime is one of the most common causes of employee burnout. Mandatory overtime forces health care workers to put their families second on their list of priorities and put patients' lives in jeopardy; many health care workers are leaving their respective fields because they are not willing to make these unfair sacrifices. The abuse of this tool must stop if we are to recruit a sufficient pool to staff our excellent health care facilities in Wisconsin.

The fact of the matter is that mandatory overtime is currently abused by many health care facilities, and in some cases it results in serious harm to patients. Many of the facilities that have voiced opposition to this ban contend that they only use mandatory overtime as a last resort, in response to unforeseeable situations where there is no alternative. I believe that this is the correct use of mandatory overtime. That is why our mandatory overtime ban specifically does not apply to "unforeseeable emergencies". No nurse would leave an emergency situation occurring at the end of his or her shift unless there was sufficient help to take over. Many health care providers are putting out work schedules full of holes without adequate coverage and then require staff to work



mandatory overtime. In these cases, this is not done in response to "unpredictable demand for services" as claimed. This is not a bill intended to tie the hands of management. Many health care facilities recognize the negative cascading effects of mandating overtime, and through sound management and efforts to increase employee satisfaction choose not to be part of the problem. However, the bad apples in the health care industry are clearly spoiling the barrel. We must stop making health care workers choose between their families and patient safety. This is simply about taking care of those who take care of us.

Sincerely,



Representative DuWayne Johnsrud  
96<sup>th</sup> Assembly District

cc : Senator Decker  
Senator Baumgart  
Senator A. Lasee  
Senator Harsdorf

# WISCONSIN CITIZEN ACTION



*Wisconsin's Public-Interest Watchdog*

Wisconsin Citizen Action also supports SB211.

Wisconsin needs legislation to end mandatory overtime for Healthcare Workers.

Forced overtime has no place in any workplace, but it should be prohibited in healthcare where patient's lives are at risk.

No healthcare worker should be forced to work overtime. No worker should have to choose between working and being with loved ones. And no patient should have to be cared for by an overworked, exhausted nurse or healthcare professional.

This is a critical issue for Green Bay. We are in the process of opening our fourth hospital. Like most cities we already have a nurse shortage. Shortage of nurses is no excuse for forced overtime. Actually forced overtime is leading to healthcare workers leaving their profession, thus contributing to this shortage.

There are limits on the work hours of truck drivers, airline pilots, flight attendants, and rail workers. Why should healthcare workers be treated differently?

Thank you, for your help on this matter.

**MILWAUKEE**  
★ 152 W. Wisconsin Ave., #308  
★ Milwaukee, WI 53203  
★ (414) 272-2562  
★ FAX: (414) 274-3494  
★ E-Mail: wica@execpc.com

**MADISON**  
★ 122 State St., #308  
★ Madison, WI 53703  
★ (608) 256-1250  
★ FAX: (608) 256-1177

**NORTHEAST**  
★ 1642B Western Ave.  
★ Green Bay, WI 54303  
★ (414) 496-1188  
★ FAX: (414) 496-1008

**RACINE / KENOSHA**  
★ 1840 Sycamore Ave., #1  
★ Racine, WI 53406  
★ (414) 632-5567



The following testimony was submitted by one of Sen. Hansen's constituents.

-----Original Message-----

Sent: Sunday, September 30, 2001 8:17 PM

Subject: Re: Pending legislation - mandatory overtime

Unfortunately, I will be unable to attend the meeting on Oct. 2. I wish to convey my opinion as a Wisconsin RN for almost 20 years to Senator Hansen.

Over the last 2 decades, nursing shortages have come and gone, as have various theories about where it is and is not appropriate to utilize RN's, LPN's and Aides within the hospital setting.

You are no doubt aware that a nursing shortage is not only a symptom, but also a major contributing factor to a prolonging of the shortage: When nurses are in short supply, those of us remaining on the job are routinely overworked, to pick up the slack. (i.e. mandatory overtime.) Patient safety is compromised, and those working feel inadequate to meet the needs of so many patients.

And job satisfaction drops. As a result, nurses burn out and leave the field, or at least bedside care, where the shortages always seem to be the worst. And nursing in general gets bad press as being an overworked, underpaid, exhausting profession.

So fewer enter the field. And those remaining are worked all the harder. And so on, and so on, etc.

What's the solution? I don't know. At times I wondered why the hospitals don't/can't/won't set lower limits on the number of inpatients they admit when there is an obvious nursing shortage. Certainly some need acute or emergency care. But others could postpone elective procedures if needed to do so.

Of course, this will impact on a health care provider's income. But patient safety and encouraging existing nurses to remain in the field under better working conditions must amount to something, too.

And LPN's and Aides can certainly be better trained and utilized than they are in many health care settings. When, as an RN, I need help in lifting or turning a heavy patient, or getting someone to the bathroom, giving a bath, or passing a meal tray, there is no reason why I need assistance from another RN vs. an LPN or Aide. And I've been privileged to work with many very competent, experienced and dedicated LPN's and Aides. When a new RN graduate enters the health care setting, it is often these experienced and well-grounded LPN and Aide "veterans" who can help the new RN to find his or her footing in the beginning and stay with nursing, rather than becoming overwhelmed and leaving the field.

Our hospitals had laid off or alienated many dedicated LPN's and Aides through the years (circa early 1980's). Historically it seems our hospitals have tried to scale down the number of staff on any shift by focusing primarily on how many (higher-salaried) RN's can stretch how far, rather than giving us sufficient LPN's and Aides to work with us and help to provide better patient care. Some LPN programs closed years ago because hospitals were by and large no longer hiring LPN's. Thus, the hospitals themselves have had some part in the shortage of ALL types of nurses.

I believe if nurses continue to be driven into too many hours, caring for too many patients, the shortage will only continue to worsen. And more health care providers will be forced to close. The health care industry in general needs to start treating nurses better, start promoting nurses as qualified, dedicated and valuable professionals, and doing what they can to assist and promote training programs at all levels of nursing.

Again, I wish I could attend this meeting and share these thoughts in person. Feel free to glean anything from this that may be of value to you, but I prefer that you did not mention my name. You see, I was more or less forced into a "casual part-time" RN position years ago, due to otherwise having to work impossible hours for me and my young family. I actually have it pretty easy, compared to many of my co-workers. But I can not afford to jeopardize my job.

Thank you and other legislators who are working towards better conditions for nurses. God bless!



# WISCONSIN FEDERATION OF NURSES & HEALTH PROFESSIONALS

9620 West Greenfield Avenue  
West Allis, WI 53214-2645  
414-475-6065  
1-800-828-2256  
FAX 414-475-5722

AFT, AFL-CIO

Testimony of Sharon Penister, RN  
Wisconsin State Senate Committee on Labor and Agriculture  
Support for Senate Bill 211  
October 2, 2001

Good afternoon Chairman Hansen and members of the Senate Labor Committee. Thank you for this opportunity to speak to you today about why we need to pass Senate Bill 211 into law without delay. My name is Sharon Pennister and I am a Registered Nurse. I am here today to talk about the dangers of mandatory overtime to nurses, health care workers and our patients.

Mandatory is a severe problem for nurses and patients alike. Mandatory overtime is a problem due to short staffing. That is to say that when management does not schedule enough nurses to staff a shift in advance, it often results in a nurse being forced against her will to stay the next shift. Many nurses complain that management makes no attempt to rectify the problem.

Patient safety is in jeopardy when exhausted nurses are forced to care for sick patients. I thought I would share some examples of how mandatory overtime has affected patient care.

On one occasion a nurse received a physician order for Nitro patch 0.2mg to be changed every 3 days, Digoxin 0.25mg one tablet every day, Atenolol 25mg one tablet every day. The nurse transcribed the medications for a patient with a same name but she failed to check the date of birth. Collecting the medications to administer to the patient, she failed to check the name brand against the medication cardex. The patient did not recognize the medication and took the medication anyway. He allowed placement of the patch. He later complained of feeling light headed. The nurse later noted he was the wrong patient. Assessed his vital signs and notified the physician. She stated the error was made

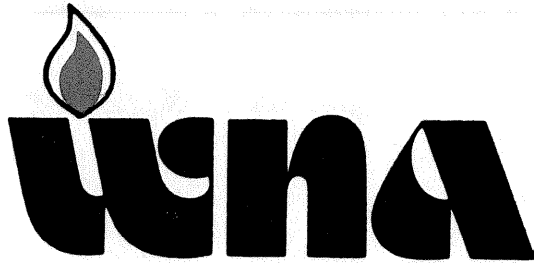
because she was mentally exhausted from no sleep the previous night because she was mandated to work a double shift.

While preparing medication to be given, a nurse relies on the medication cardex for the patient's information. The patient was scheduled for morning insulin. Having been mandated to work an extra shift, she was extremely tired. Knowing her situation, management told her to do the best she could be required her to stay or lose her job. When reading the med cardex for insulin, she thought she saw "30 units of Humalog and 7 units of NPH". Humalog insulin becomes effective in about 15 minutes. She failed to administer the correct dose and recognize the peak time for the insulin. Quick action was taken to rectify this situation, but death could have occurred. Instead the dose read "30units of NPH and 7 units of Humalog Insulin." Her patient began to experience signs and symptoms of hypoglycemia. She discovered she had given the wrong dose.

These are just two examples of what can happen to patients when fatigued nurses are forced to care for them. It is common sense that tells us that nurses and health care workers are more likely to make errors when they are tired. When nurses are forced to work overtime, many times this can mean working sixteen hours straight. This kind of abuse is putting patients in harms way.

I have been a nurse in many different settings and have cared for many different types of patients. Currently I work in a correctional facility. Right now this bill does not cover the nurses and health care workers who work in correctional facilities. I would like to ask you to consider extending the bill to also cover those who deliver health care in our correctional facilities.

Mandatory overtime hurts patients and nurses alike. Thank you for your time and I hope that you will work steadily to ensure the safety of all patients in Wisconsin.



**Wisconsin Nurses Association**

6117 Monona Drive  
Madison, Wisconsin 53716-3995  
(608) 221-0383  
FAX (608) 221-2788

TO: Senator David Hansen, Chair and Members of the Senate Labor Committee  
FROM: Pat-Finder-Stone, RN, MSN  
Wisconsin Nurses Association  
Public Policy Council Co-Chair  
DATE: October 2, 2001  
RE: Support for SB 211 - Banning of Forced Overtime for Health Care Workers

---

Good afternoon Chairperson Hansen and members of the Senate Labor Committee. My name is Pat Finder-Stone. I am a registered nurse and Co-Chair of the Wisconsin Nurses Association (WNA) Public Policy Council. WNA is the professional organization of all registered nurses in Wisconsin.

I am here today to share WNA's support of SB 211 - Banning of Forced Overtime for Health Care Workers. WNA supports a health care system that provides quality health care that is accessible to and affordable for all Wisconsin residents. We support quality health care that affords patient protection including legislation that places a ban on forced overtime for nurses.

Inappropriate staffing is the number one concern of nurses today. Nurses already face great stress and challenges on the job — they are expected to care for greater numbers of patients than ever before. These patients in hospitals, nursing homes, home care and other settings, are more acutely ill than in the past thus requiring greater nursing care and supervision. At the same time, we have seen the increase in cost controls implemented by health care organizations continue and with that the decisions that directly effect the number of patients assigned to the nurse. Given these cost control decisions which have a direct impact patient staffing comes the increase use of mandating nurses to work double shifts — that is 16 to 20 hours at a time. There is also the expectation that this same nurse will report to work the next day to work his/her next scheduled shift.

Forcing tired nurses to work excessive hours is a patient safety issue. This cost saving measure does not put the patient first. Forced overtime puts patients at risk to receiving nursing care from a nurse who may be significantly fatigued both physically and mentally.

With the recent emphasis on addressing and reducing errors among health care practitioners, including nurses, through examination and improvement of systems. One can easily surmise that improving safe patient care requires nurses who are alert, competent, and able to execute the sophisticated thinking, decision making and technical skills that are necessary to deliver quality care.

How does forcing the RN to work an additional 8 or 12 hours, when he/she is stating that they cannot, support patient safety? How does this support the 46 year old single parent who is balancing kids and older parents, while maintaining his/her job? How does this support recruitment and retention of registered nurses? The answer to all three is it does not.

The legal liability issues for the RN also come into play when being forced to work additional hours. When the RN accepts a patient assignment either voluntarily or forced, and a negative patient outcome results, the nurse remains personally and legally responsible, accountable and liable for that outcome under his/her license. Once a nurse accepts the forced overtime assignment, their license to practice as an RN is in jeopardy if unable to deliver safe patient care

Supporting SB 211 is good for patients and good for nurses. SB 211 accomplishes the following:

1. It ***puts the patient first*** by promoting patient safety.
2. It ***allows the RN to say no*** to overtime requests without fear of retaliation.
3. Nurses ***will continue to "rise to the occasion"*** when unforeseen circumstances (e.g. call-ins and community disasters) exist for the employer and the need to stay over arises.
4. ***No one should have to be put into the situation of losing a license or losing a job.***
5. Forces the employer to ***utilize the other solutions*** (canceling elective surgeries, closing beds, diversions to other hospitals, and using monetary bonuses to encourage part time nurses to pick up extra shifts) that work in addressing the lack of adequate staff.

WNA would like to thank Senator Judy Robson and Representative DuWayne Johnsrud for sponsoring SB 211 and the companion bill AB 457. In addition I would like to thank you the members of the Senate Labor Committee that have supported this bill.

Thank you for providing me the opportunity to present WNA's position today. I will gladly answer any questions or concerns you may have.



# WISCONSIN FEDERATION OF NURSES & HEALTH PROFESSIONALS

9620 West Greenfield Avenue  
West Allis, WI 53214-2645  
414-475-6065  
1-800-828-2256  
FAX 414-475-5722

AFT, AFL-CIO

Testimony of Stephanie Bloomingdale  
Wisconsin State Senate Committee on Labor and Agriculture  
Support for Senate Bill 211  
October 2, 2001

Good afternoon Chairman Hansen and members of the Senate Labor and Agriculture committee. My name is Stephanie Bloomingdale and I am here on behalf of the Wisconsin Federation of Nurses and Health Professionals. We represent more than 3,000 nurses and health care workers in Wisconsin. Thank you for the opportunity to speak to you about the need to pass Senate Bill 211 which would put an end to forced overtime for Wisconsin's nurses and health care workers.

Mandatory overtime is risky business for Wisconsin hospitals. When hospitals and other health care providers force their nurses and health care workers to work beyond the end of their shift they are playing with fire. They are playing with patient's lives. For too long nurses have been put in a position of being forced to work another shift, often with little notice or warning. This dangerous practice plays havoc with not only with the nurse's personal life but also puts patients directly in harms way.

Imagine an oncology nurse who works a night shift from 11:00 PM until 7:30 am the next day with only three hours sleep. All night long she delivers chemotherapy and cares for patients with complex medical needs, many with multiple IV's. At 6:00 in the morning her supervisor tells her she can't go home and she needs to cover the next shift. She can hardly keep her eyes open and says that she was very afraid of making a mistake. She was afraid for her patients. This was not an emergency. The schedule had been out for four weeks without a nurse scheduled for that shift.

Recently you heard from nursing administrators who opposed the bill to stop mandatory overtime. You heard from administrators who asked you and all of Wisconsin's patients to make a choice: They said that we must choose between a fatigued nurse or no nurse at all. Is this really the choice we are left with in Wisconsin? Must we make a choice



between poor quality health care or no health care at all? Wisconsin's patients deserve better.

Last week you heard hospital administrators who told us the reason they had to mandate nurses to work forced overtime is because of the nursing shortage. While it is very true that we are in the midst of a severe nursing shortage that will likely worsen, the answer is not to drive the current nurses out of the profession by forcing them to work overtime.

A recent poll commissioned by the Federation of Nurses and Healthcare Professionals and conducted by Peter Hart Associates shows that fully one fifth of the nation's nurses are ready to leave right now because they are fed up with horrendous working conditions. One out of five nurses plans to leave the nursing profession in the next five years. The nurses, ages 18 – 59 plan to leave not to retire, but to get away from oppressive working conditions. An even more alarming result of the survey tells us that 50 percent of current nurses say they have thought about leaving nursing and this number excludes nurses who are thinking of retiring.

Mandatory overtime is a cause of the nursing shortage it is not the cure. A nurse in Milwaukee with two small children tells an all too familiar story of leaving nursing altogether because of mandatory overtime. She said, "Mandatory overtime made my family suffer. I hated having to choose between the nursing I love and my children. I chose my family and left nursing altogether. No nurse should have to make a choice like that."

Nurses across Wisconsin are being forced to work overtime. I thought I would share with you some of the conversations I have had with Wisconsin nurses.

A nurse from Gunderson Lutheran hospital in LaCrosse said she fears mandatory overtime is going to get worse. They are now forced to pick up 8 – 12 hours of ot every month.

A nurse from St. Joseph's in Milwaukee quit because of mandatory overtime. She is now working in home care but may leave nursing altogether because of the working conditions.

A nurse from St. Joseph's in Stevens Point has been a nurse for 16 years. She works at least 2 MOT shifts every month in the OB. She is tired and she is angry. She says it is causing division with the staff. She says they don't try to find a replacement, they just mandate. A manager told the staff nurses that if mot legislation became law in Wisconsin they should expect their patient loads to double.

A nurse from Rock County health care center said that one RN was mandated every 2-3 days. She quit when she made a medication error on the 16<sup>th</sup> hour of a mandatory shift.

A nurse from St. Luke's in Milwaukee says she is working 14, 16, and even 18 hour days. She has children and is tired of missing special events like soccer games because she has to work or risk losing her job.

A Theda Clark nurse says mandatory overtime is a way of life. Missed medications and errors are a normal part of everyday.

An Appleton nurse says many nurses have quit because of mandatory overtime. They are so fed up they can't stand their jobs anymore.

These are just a few samples of comments from nurses around the state. Mandatory overtime is dangerous to patients. Not one of us would feel safe on a plane driven by a fatigued pilot. Not one of us wants to be driving next to a truck driver who is blurry eyed with fatigue. We have laws to protect citizens from over tired pilots and truck drivers, isn't it time we protect our citizens from exhausted health care workers who are forced to work overtime?

Lucien Leape, an expert on patient safety at the Harvard School of Public Health said, “It really ought to be illegal for nurses to work double shifts. You don’t allow airline stewards to work more than eight hours. Why would anybody think nurses are less important?”

Forcing exhausted nurses to care for seriously ill patients is irresponsible. A recent study found that after 17 –19 hours without sleep, the performance of subjects was equivalent or worse than at a blood alcohol level of 0.05 percent. After 24 hours of sustained wakefulness, the impairment was equivalent to that caused by a blood alcohol concentration of 0.10 percent.

This bill would place limits only on involuntary overtime. Voluntary overtime will continue as always. It is quite different to prepare in advance for a shift which has been voluntarily accepted. The nurse will ensure she has enough rest before her shift, she will plan ahead for the care of her children, and she will begin the shift knowing that she chose to work an extra shift. It is quite different to be forced, often at the last minute to stay another shift, against your will and better judgement.

This bill would allow the use of mandatory overtime in cases of “unforeseen emergencies” if necessary. Chemical explosions, car crashes, floods, fires, outbreaks of contagious diseases, and other disasters would all allow administrators to mandate nurses and health care workers to work overtime. But the reality is that whenever there is a disaster, nurses and health care workers are the first ones to respond by voluntarily coming in to work. I have never heard of an instance that hospital administrators actually had to force a nurse to work overtime in a serious emergency. Every hospital has a disaster plan and health care workers rise to the occasion to care for the sick and the injured whenever they are needed.

This bill would ban the use of indiscriminate forced overtime. No one should be surprised when schedules are posted with holes that there are not enough nurses to staff the shifts. It is not an emergency when a shift normally requires 8 nurses and only 5 are scheduled to work.

Jeopardizing patient safety should not be an option in Wisconsin. We deserve to be cared for by health care workers who are alert and prepared to meet the day's challenges. Patients deserve quality health care and they deserve to never knowingly be put in a situation where their care is in danger. I urge you to support SB 211 and make sure that no patient has to choose between a fatigued nurse and no nurse at all.

HEARING – October 2nd, 2001

Senate Bill 211

Jim Hemes  
Director of Government and Community Relations  
Affinity Health System  
Menasha, Wisconsin

I appreciate the opportunity of having a forum to speak to you about the health care the bill on mandatory overtime. First, I would agree that MO is an insensitive way to deal with a work force shortage, but our first priority is patient care. Ultimately, it is my hope that we will work together to find solutions to the real issue, the workforce shortage.

AHS has 3 hospitals: St. Elizabeth in Appleton with 148 functional beds, Mercy Medical Center in Oshkosh with 177 beds and Calumet Medical Center in Chilton with 53 licensed beds. Our commitment to the communities we serve is over 110 years in since the Sisters of the Sorrowful Mother came to Oshkosh Wisconsin. Just last June we dedicated our brand new MMC a \$60 million state of the art health care facility that will serve Oshkosh and her surrounding communities for another century and more.

Our most valuable asset in health care organizations is our employees. We provide health care services to the community 24 hours a day, seven days a week, 365 days a year. Unfortunately, there is a severe worldwide workforce shortage currently reliant on an aging workforce with a projected critical shortage of required personnel in the near future. The shortage in Wisconsin is compounded by our average age of our nurses, which is 47 years old.

Quality patient care is a priority for health care organizations. We understand that you are deeply concerned about the welfare of the people you represent. However, the welfare of the people you represent is not well served in the proposed ban on unavoidable overtime.

We use overtime only after all other strategies for ensuring patient care have been exhausted. It is not our preference to use unavoidable overtime; we do not want to interfere in the personal lives of our employees.

Our hospitals use a number of techniques to ensure adequate staffing for patient care before they resort to overtime, including using voluntary "on-call" nurses who voluntarily sign up to be ready to work if a unit suddenly needs help, or allowing nurses who work in a given area to participate in the scheduling process. In a time of growing health care worker shortages, there are times when mandatory overtime must be used to maintain safe staffing levels. We must be creative, flexible, and willing to adapt to an ever-

changing and unpredictable environment. We will continue to work with our staffs to balance their needs with the demands of patient care.

The proponents of this bill claim that a tired nurse on mandatory overtime is not as good a caregiver as a rested nurse. This comparison is misguided; our hospitals do not use mandatory overtime when there are rested nurses ready to cover that shift. Hospitals use mandatory overtime only when the choice is a nurse on mandatory overtime, or no nurse at all.

Mandatory overtime is a symptom of a larger problem, which is the escalating shortage of health care workers in this state. Demographic trends indicate that Wisconsin is on the brink of a severe health care workforce shortage. Wisconsin's population is aging, which will drive up demand for health care services. The health care workforce is also approaching retirement.

The solution to this problem is clearly a concerted effort to find long-and short-term ways to increase the supply of nurses in Wisconsin. Affinity Health System is ready and willing to work with the Wisconsin Legislature on concerted approaches to enhance the attractiveness of health care careers and to develop the educational and training resources Wisconsin needs.

Were mandatory overtime limitations to become law in Wisconsin, it would place hospitals and other health care facilities in impossible situations. Health care providers cannot and will not abandon patients or turn our backs on need. The mandatory overtime bill would deny health care providers the flexibility to determine work schedules and options that are appropriate to their particular facility and best serve patients.

For the reasons that I have just shared, I ask you to please not pass the bill. Mandatory overtime is a safeguard guaranteeing the provision of health care services. I would ask instead that we focus on finding solutions to the real issue, the work force shortage.

Thank you for your consideration.

Respectfully submitted,

Jim Hemes  
Director of Community and Government Relations  
Affinity Health System  
1570 Midway Place  
Menasha, Wisconsin  
54957  
920-720-1721  
Jhemes@affinityhealth.org



## **Ban on Mandatory Overtime for Nurses; SB 211**

Dear Members, Senate Committee on Labor and Agriculture:

My name is Thom Ciske, I am the Vice President of Government Relations for the Fox Cities Chamber of Commerce and Industry, an organization representing over 1,800 businesses throughout the Fox Cities. I am here to express the Chamber's opposition to Senate Bill 211 which would ban the use of mandatory overtime by health care organizations.

As someone who is all too familiar with the down-side of mandatory overtime: the long hours, the late nights, the cold meat sandwiches at 4:00 in the morning, the ruined personal plans, the missed soccer games, birthdays and anniversaries, I also understand an employer's need for such flexibility.

Employers don't like to implement mandatory overtime because it's bad for morale, it can compromise safety, and frankly, it's expensive.

Employees don't like mandatory overtime because it can compromise safety and it disrupts their private lives.

Customers aren't crazy about their products being produced and supplied by workers who may not be alert and focused on quality.

However, mandatory overtime is a fact of life in most businesses, when no other alternative is available.

Businesses are using every creative management tool at their command to identify, train and employ anyone who is willing to work and learn. They are also trying to find ways to better utilize existing employees and technology to ensure that businesses remain viable and jobs remain intact.

In health care, due to a decreasing supply of qualified nurses, mandatory overtime is being used to protect patients.

Hospitals do not use overtime to facilitate short-staffing. Hospitals use mandatory overtime only when the choice is a nurse on mandatory overtime, or no nurse at all.

Were mandatory overtime limitations to become law in Wisconsin, it would place hospitals and other health care facilities in impossible situations. The mandatory overtime bill would deny health care providers the flexibility to determine work schedules and options that are appropriate to their particular facility and best serve patients.

And, in a much broader sense, should this ban be implemented for health care workers, shouldn't it be extended to every worker in Wisconsin who is from time to time asked to disrupt their personal lives as a result of mandatory overtime.

It would seem to me that the issue of mandatory overtime should be a conversation reserved for labor and management negotiations and not the State Legislature.

If State Legislators are looking for a way to help defuse the situation, assisting further in employee recruitment and training might have a more positive impact on the real problem.





SERVICE EMPLOYEES  
INTERNATIONAL UNION  
AFL-CIO, CLC

DAN IVERSON  
President

KEN IVERSON  
Vice-President

PEGGY J. THOMAS  
Treasurer

DAVID ZELLER  
Secretary

EXECUTIVE BOARD

Louis Schneider  
Dian Palmer  
Debbie Timko  
Marion Farquhar  
Don Morschauser  
Arlys Downing

8021 W. Tower Avenue  
Milwaukee, WI 53223-3215  
414.357.8160  
Fax: 414.357.8166



*Senate Labor and Agriculture Committee*

Green Bay, October 2, 2001

**Testimony of Robert Kraig, Ph.D.  
Political Director, SEIU Wisconsin State Council**

**SB 211: Mandatory Overtime for Health Care Workers**

I wish to thank the Chair, and the members of the Committee, for conducting this series of public hearings.

My name is Robert Kraig, and I am the Wisconsin State Political Director for Service Employees International Union (SEIU). SEIU is the largest health care union in North America, and the largest and fastest growing union in the national AFL-CIO. In Wisconsin, SEIU represents thousands of health care workers who would be affected by SB 211. Our state-wide nurses's local, SEIU District 1199W/UP, represents hospital nurses, and health care professionals that work for the state and in local public health departments. Many of these health professionals face the threat of mandatory overtime on a daily basis. Our largest affiliate, SEIU Local 150, represents nurse aides in nursing homes and hospitals who are also affected by mandatory overtime. Although mandatory overtime is much more common in hospitals, it is becoming a problem in some nursing homes as well.

Mandatory overtime has become a major issue of the last few years, in Wisconsin and around the country, because of major changes in the way hospitals and other health care facilities are operated. Beginning in the early 1990s, the "down-sizing" theories that had swept through many industrial sectors reached the hospital industry. In a deliberate attempt to cut costs, hospitals thinned out their nursing staffs. The burden of this shift in management philosophy has fallen most heavily on nurses, who, as any one who has spent any time in a hospital knows, provide the bulk of hands-on patient care. At the same time, acuity rates increased substantially, putting additional pressure on already over-stressed nursing staffs. This dramatic deterioration of working conditions has driven many nurses out of the profession, and many others into non-direct care settings.

One of the results of this deliberate under staffing has been an increased dependence on mandatory overtime. While mandatory overtime had been traditionally used only during extreme emergencies, an increasing number of hospitals now use it as a regular practice to fill permanent holes in their staffing schedules. At UW Hospital, for example, according to records released by the hospital, there were 14, 472 hours of mandatory overtime in 2000. This number,

Local 150 (Statewide)    District 1199W/United Professionals (Statewide)    Local 113 (MN - Western WI)  
Local 152 (Racine)    Local 180 (LaCrosse)    Local 168 (Kenosha)    Local 21 (LaCrosse)

shocking as it is, is a dramatic underestimate. The hospital does not even keep records on mandatory overtime incidents that are less than four hours in duration. There is no federal or state requirement that hospitals keep statistics on mandatory overtime. Spokespersons have tried to use their own failure to keep and release such records to claim that mandatory overtime is not a problem in Wisconsin, but the testimony of nurses throughout the state shows that it is an increasingly common problem in many Wisconsin hospitals.

Having worked on this problem for a long time, I have become convinced that the case against the regular use of mandatory overtime is overwhelming. I have been surprised by the feebleness, and indeed that on-face inconsistency, of the arguments that have been advanced in opposition to SB 211, and its companion bill, AB 457. In order to highlight the case for this bill, I will review the major arguments against the bill that have been leveled in the press, in the lobbying of the Wisconsin Health and Hospital Association and their allies, and in the first public hearing in Janesville.

**Claim:** *Mandatory overtime is rare, and is only used in emergencies to protect patients in need of vital care.*

**Response:** If this is really true, opponents should not oppose the bill. All SB 211 does is codify this practice, only allowing mandatory overtime in unforeseen emergencies. Only hospitals that use mandatory overtime as a regular staffing practice will be affected by the bill. The hospital association's vehement opposition to the bill is itself evidence that mandatory overtime is used in non-emergency situations by many hospitals.

**Claim:** *SB 211 treats a symptom of the nursing shortage, not its root causes.*

**Response:** To the contrary, a ban on non-emergency mandatory overtime treats the primary cause of the nursing shortage--the deterioration of working conditions. Recent studies by the federal government, major universities, and even a report by a hospital credit reporting firm, have shown that oppressive working conditions have prompted tens of thousands of nurses to vote with their feet, either by seeking non-direct care nursing positions or leaving the profession altogether. A record half-million nurses are not even using their licenses. Even worse, according to a study by the University of Pennsylvania one in three nurses under 30 years of age plan to leave the profession within the next year. To stem the nursing shortage, hospitals need to focus on retention, and the best way to do that is to improve working conditions. Limiting mandatory overtime would be a major step in this direction. As the Chicago Tribune concluded in a major investigative series on hospital care last year: "Hospitals across the country regularly blame the shortage of nurses for staffing deficiencies, but in reality, there is more often a shortage of nurses willing to work in hospitals. Deteriorating oppressive working conditions--from mandatory overtime to stagnant pay--have made hospital jobs less appealing. . . . Mandatory overtime and 16-shifts have driven many nurses away."