



September 14, 2007

Dear Representative:

On behalf of the American Hospital Association (AHA), representing nearly 5,000 member hospitals, health systems and other health care organizations, and 37,000 individual members; the American Organization of Nurse Executives (AONE), representing professional nurses in executive practice; and the American Society for Healthcare Human Resources Administration (ASHHRA), representing 3,200 health care human resource managers in hospitals and other health care facilities, we are writing to express our strong opposition to H.R. 1644, the *Re-Empowerment of Skilled and Professional Employees and Construction and Tradeworkers Act*.

This bill amends the definition of “supervisor” in the *National Labor Relations Act* (NLRA) by removing two functions that classify a nurse as a supervisor: “assigning” and “responsibly directing” other staff. It also would add a new requirement: that a supervisor spend “a majority of the individual’s worktime” performing the remaining duties in the definition, such as personnel and disciplinary-related functions. These definitional changes would reverse the National Labor Relations Board (NLRB) guidance used to determine the essential characteristics of supervisory status.

Nurse supervisors are often the most visible individuals “in charge” of a specific hospital unit, and their judgment and discretion are essential. They are responsible for assessing the acuity of a patient’s illness, as well as identifying which staff members have the necessary skill sets to best care for that patient. The nurse supervisor acts on behalf of the hospital, providing a management/leadership voice to patients, families and other employees. When there is a crisis in patient care, it is the nurse supervisor who steps in, providing leadership and guidance. It is essential that nurse supervisors perceive themselves, and that others perceive them, as part of hospital management.

If H.R. 1644 is enacted, nurse supervisors would be subject to union control, work rules, fines and other forms of union discipline for crossing a picket line or continuing to work during a work shortage. In addition, nurses who are supervisors would no longer exclusively serve as the employer’s voice in labor-management relations during union organizing campaigns, grievances and labor disputes. By removing the functions of

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“assigning” and “responsibly directing” other staff, the bill undermines hospitals’ ability to depend on the charge nurse to ensure continuity of care.

The legislation is entirely unnecessary; existing NLRB guidance, which defines each of the terms characterizing supervisory status, strikes a reasonable balance in setting criteria for whether a nurse is or is not a supervisor. The NLRB has found that nurses who regularly assign nursing personnel to specific patients and make the assignments based upon “the skill, experience, and temperament of other nursing personnel, and on the acuity of the patient” meet the test for supervisor. H.R. 1644 does not recognize this distinction.

This legislation fails to recognize this important and unique managerial role of the nurse supervisor and reverses existing guidance from the NLRB that offers hospitals clear and practical guidance for determining supervisory status.

We ask that you reject this ill-conceived legislation.

Sincerely,

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