

Workforce

Background

The Patient Protection and Affordable Care Act (ACA) greatly increases the demand for caregivers, especially primary care physicians and nurses. The law extends coverage to approximately 32 million uninsured people and requires public and private insurers to cover prevention and wellness services. To help ensure America has an adequate workforce to meet the health needs of the newly insured, the ACA identifies several initiatives to increase the supply of health care workers. For example, the law provides flexible loan repayment programs for caregivers to increase the workforce pipeline of primary care physicians, nurses and allied health professionals. In addition, the ACA creates a National Health Care Workforce Commission to develop a national strategy to address workforce shortages and encourage training in key areas.

AHA View

A strong and engaged workforce is the lifeblood of America's hospitals. The 5 million women and men who care for patients every day demonstrate the hard work, compassion and dedication that make hospitals an invaluable resource in every community. As hospitals' national advocate, the AHA addresses workforce issues on several fronts – workforce shortages, employee relations and employee wellness.

Workforce Shortages. Adequate numbers of competent and well-trained nurses and physicians are essential to address the health care needs of the U.S. population as health reform initiatives move forward. The AHA has identified a three-pronged strategy to address workforce issues for America's hospitals:

- Identify how to create the workforce necessary to meet the primary care needs of patients in a community's delivery system. The AHA is examining how the scope of practice for health care providers can be leveraged to provide greater access to care.
- Implement the recommendations in the AHA Long Range Planning Committee's report "Strategy Trumps Shortage," which focuses on redesigning work, retaining existing workers and attracting a new generation of workers. The report offers hospital leaders recommendations for developing successful workforce strategies. It is available at www.aha.org under "Workforce." Additionally, the AHA's American Organization of Nurse Executives (AONE) has developed the Workplace Environment Assessment Tool which enables measurement of excellence in the nursing work environment. It is available at www.aone.org under "Resources."
- Define principles to address future roles of the direct care providers of the future.

In addition, the AHA continues to advocate for the highest level of appropriations for nursing and allied health education programs (Refer to "Annual Appropriations")

issue paper). We also recommend Congress continue its support of the education of future physicians through the Medicare graduate medical education program.

The AHA also supports streamlining and improving the immigration process to allow qualified, internationally educated nurses, physicians and allied health professionals to come to this country. We continue working with Congress and the administration to improve immigration opportunities for qualified health care professionals, including maintaining the availability of employment-based and non-immigrant visas for shortage professions.

Further, given the current and projected shortage of physicians, especially in primary care and general surgery, the AHA continues to recommend that the 1996 cap on residency slots be lifted. Limits on the number of Medicare-funded residency training slots constrain the ability of hospitals to train new physicians. The AHA will urge Congress to eliminate the 15-year freeze in the number of physician training positions Medicare funds by supporting the creation of at least 15,000 new resident positions (about a 15 percent increase in residency slots) as included in the *Resident Physician Shortage Reduction Act of 2011* (S. 1627), introduced by Sens. Bill Nelson (D-FL), Harry Reid (D-NV) and Charles Schumer (D-NY).

Employee Relations. America's hospitals recognize and appreciate the compassion, hard work and dedication their employees demonstrate in caring for patients and communities, which is why hospitals view employee relations as a top priority. The AHA is committed to preserving the right of individual hospitals and health care systems to determine the appropriate hospital-employee relationship for their organizations and communities. We are concerned that certain organized labor-supported initiatives would interfere with hospitals' ability to work directly with their employees to enhance the work and patient care environments. Here is a snapshot of issues that may be in play in 2012.

Regulatory Front. The AHA anticipates hospitals will experience increased enforcement of wage and hour regulations from federal and state regulators. Health care employers also can expect regulatory changes and increased oversight, primarily from the Department of Labor and the National Labor Relations Board (NLRB). The NLRB is attempting to implement two recent final rules, having established April 30 effect dates for both. One rule requires employers to post an 11-inch by 17-inch notice that explains the employees' right to bargain collectively; the other rule considerably shortens the time for holding NLRB elections and limits the rights of employers to contest units being petitioned for by unions. Both rules continue to be challenged by employer organizations, and a District of Columbia federal court already has ordered that enforcement of the notice posting rule be delayed. The Coalition for a Democratic Workplace and other business groups recently filed notices of appeal against a court ruling that upheld the right of the NLRB to require employers to post a notice. The AHA

and its American Society for Healthcare Human Resources Administration (ASHHRA) are members of the coalition. In addition, the AHA, ASHHRA and AONE filed a friend-of-the-court brief in support of the U.S. Chamber's challenge of the quickie elections rule.

Legislative Arena. *The Registered Nurse Safe Staffing Act of 2011* (S. 58/H.R. 876), introduced by Sen. Daniel Inouye (D-HI) and Rep. Lois Capps (D-CA), respectively, would require health care providers to establish staffing plans that must include a percentage of registered nurses (RNs). An even more stringent approach is proposed in the *National Nursing Shortage Reform & Patient Advocacy Act of 2011* (S.992/H.R. 2187, introduced by Sen. Barbara Boxer (D-CA) and Rep. Janice Schakowsky (D-IL), respectively, which would require a minimum RN-to-patient ratio by unit. However, many factors influence a hospital's staffing plan to ensure patients receive appropriate care, including the experience and education of its nursing staff, the availability of other caregivers, patients' needs and the severity of their illnesses, and the availability of technology. Another major consideration is the availability or supply of nurses themselves. The demand for RNs and other health care personnel will continue to rise as the number of patients seeking care increases due to the aging of "baby boomers" and the number of people with health coverage grows with ACA implementation beginning in 2014.

The AHA and ASHHRA oppose efforts that limit hospitals' flexibility to determine appropriate staffing patterns for health care workers.

The AHA also opposes the *Re-empowerment of Skilled and Professional Employees and Construction Tradeworkers (RESPECT) Act (S. 2168)*, which would amend the *National Labor Relations Act* (NLRA) and reverse existing NLRB guidance on when charge nurses are supervisors. Introduced by Sens. Richard Blumenthal (D-CT), Dick Durbin (D-IL), and Tom Harkin (D-IA), the bill removes two functions from the NLRA definition of supervisor – "assigning" and "responsibly directing" other employees. In addition, the bill requires supervisors to spend a majority of their time performing other duties, such as hiring, firing and disciplining other employees. Removing these functions from the NLRA definition of "supervisor" would enable supervisors to be eligible for inclusion in the collective bargaining unit and subject to all union work rules and discipline.

Current NLRB guidance on when charge nurses are supervisors strikes a reasonable balance in establishing the criteria for when charge nurses function as supervisors. Not every charge nurse is a supervisor – it is their responsibilities that make the difference. On a day-to-day basis, charge nurses are often the most visible individuals "in charge" of a hospital unit, stepping in when there is a crisis or conflict and providing a management voice to patients, families and other employees. We must preserve the ability of charge nurses to carry out their roles as the voice of management without being subject to conflicting loyalties and threats of union discipline.