TESTIMONY OF
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BEFORE THE PUBLIC HEALTH COMMITTEE
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SB 469, An Act Concerning Mandatory Limits on Overtime in Hospitals and Nurse-To-Patient-Ratios

Good morning Senator Murphy, Representative Feltman, and members of the committee. I am Linda Berger Spivack, Vice President of Patient Care Services at MidState Medical Center and a member of the Connecticut Hospital Association Board of Trustees. I appreciate the opportunity to present testimony on **SB 469, An Act Concerning Mandatory Limits On Overtime In Hospitals And Nurse-To-Patient Ratios.**

This bill would prohibit a hospital from requiring an hourly employee who is involved in direct patient care from working in excess of a predetermined, scheduled work shift, provided such work shift is determined and promulgated not less than forty-eight hours prior to the commencement of such scheduled work shift. The bill provides certain exceptions to the prohibition related to completion of surgical cases, relief of employees working in critical care units, public health emergency, and institutional emergency.
This bill also requires that the Commissioner of Public Health to adopt regulations to establish minimum nurse-to-patient ratios for nursing staffing of hospital patient care units on a shift-by-shift, day-by-day basis. CHA opposes this bill.

Few Connecticut hospitals currently use mandatory overtime at all, and then only as a last resort to ensure the care and safety of patients. Hospitals avoid using mandatory overtime through the use of multiple strategies including asking for volunteers, drawing from internal staffing pools, using traveler or agency staff, and requiring managers to work as direct caregivers.

While this bill recognizes the impossibility of an across-the-board prohibition of mandatory overtime in Connecticut hospitals by specifying certain exceptions, there are still patient care implications.

This bill does not address the "on call" issue of our operating rooms. While it includes an exception for surgical staff who must finish a surgical case, it does not address the fact that hospital operating rooms are routinely staffed during evenings, holidays and weekends by employees who are "on call" serving beyond the routine work week to respond to trauma or patient emergency. If requiring an "on call" staff person to fulfill their on call obligation is

considered mandatory overtime, this bill would adversely impact the staffing of ORs and, consequently, the ability of hospitals to provide emergency surgery. The same applies for staff in the Post-Anesthesia Care Unit (PACU).

There is an exception for employees working in a critical care unit, but in today's hospitals, virtually all patients are critically in need of care, whether or not they are assigned to designated critical care units.

If enacted, this bill may hamper creativity or incentive to avoid overtime. We already know that the biggest users of mandatory overtime today are the hospitals with union contracts allowing mandatory overtime and specifying a mechanism for using it. Some of the best methods hospitals have found to avoid the use of mandatory overtime have been through hospitals and their employees working through staffing issues. A statute prohibiting the use of mandatory overtime may place a chilling effect on such creativity.

Connecticut hospitals know how damaging mandatory overtime can be to a workforce. It is a last resort measure and it is not even used at all by most hospitals. Managing the complex staffing needs of a 24x7 hospital must be the responsibility and right of the hospital. Given the extremely competitive labor market, the employer who is most successful at minimizing disruptive and mandatory overtime will become the employer of choice. But adding legislation prohibiting mandatory overtime, even with the broad exceptions included in this bill, will add a layer of unnecessary complexity and the risk that many precious resources will be drained by making a process that is already successful at most hospitals subject to constant challenge and complaint.

CHA also opposes regulation that would establish minimum nurse-to-patient ratios for nursing staffing of hospital patient care units on a shift-by-shift, day-by-day basis. Hospitals must have flexibility to adjust nurse staffing levels to meet the healthcare needs of their patients.

Nursing and other staffing needs are unique to each individual healthcare organization and its community and patient population. Staffing decisions cannot be predetermined or addressed by a "one size fits all" approach. Although standards of care and practice are common across settings, staffing levels and staffing mix must meet the unique and diverse needs of each organization and its respective patient population whose needs change hour to hour, and multiple factors must be considered by those actually responsible for providing patient care.

Care delivery is changing all the time. Where and how health care is delivered today is different than even a few years ago. Technology is continuously and rapidly changing the way care is delivered. New protocols and research breakthroughs are constantly changing care and treatment plans. More care is delivered outside the hospital. These continuous changes require staffing flexibility. Organizations and their nurse leaders must have the flexibility to use their nursing resources in the way that makes most sense from a quality patient care perspective.

With pressure for cost containment coming from the public and employers, hospitals and other healthcare providers must find more efficient ways to deliver the best care to patients. Today's hospitals must respond ever more quickly and effectively to new economic demands or risk closure. By limiting a hospital's ability to work with different numbers and skill

mixes of nurses and other staff, hospitals would be restricted in their ability to explore ways to combine nursing care with the services of other providers or other technologies. Hospitals that are providing high quality care with less costly care models (thus providing efficient and cost-effective care to their respective communities) could be penalized for non-compliance despite successful patient outcomes. In addition, government decisions about provider payment and reimbursement levels have real consequences in terms of the services available and the numbers and skills of the people who take care of patients.

National nursing organizations and experts recommend against mandating staffing ratios. The American Nursing Association has communicated its concern that single dimension staffing approaches are detrimental to the safe care of patients. In its Principles for Nurse Staffing, the association makes it clear that determining appropriate staffing levels involves the consideration of multiple factors including such things as individual patient intensity, unit intensity, variability of care, unit architecture, technological support, and scope of practice and competency level of staff members.

The Emergency Nurses Association also has taken a position that mandated staffing ratios are too limited in scope and could be perceived as adequate levels that would not support dramatic changes that occur hour to hour in an emergency unit. The American Association of Critical Care Nurses as well, espouses staffing methods that take into account the complexities of providing patient care as opposed to looking only at numbers.

Dr. Peter Buerhaus, a respected researcher and nationally recognized expert on the nursing workforce in the U.S., warns against legislated mandatory staffing ratios. He indicates that the implementation of mandated staffing ratios would force hospitals to operate inefficiently, limit their ability to explore creative improvements and/or purchase new supportive technologies, and ultimately may result in unit or hospital closure, events that are certainly not in the best interest of nurses or patients.

Mandating staffing ratios does nothing to correct the nursing shortage and will divert attention and energies away from critical long-term strategic work that must be done to address the real problem. The nation is experiencing a serious and growing shortage of nurses. Connecticut is projected to have a **55%** vacancy rate for registered nurses by the year 2020 – ranking fifth in the nation in terms of severity. A comprehensive collaborative initiative must be made by educators, providers, and state government to address the shortage now.

Connecticut has an opportunity to be a leader in creating partnerships that will address the nursing shortage and provide for safe quality care for its citizens. CHA is working with lawmakers, nursing professional organizations, educators and others to address this problem at its roots by developing solutions that address the healthcare workforce shortage.

Thank you for your consideration of our position.