

**MINUTES OF THE QUALITY IMPROVEMENT AND
PATIENT PROTECTION COMMITTEE**

Meeting of April 26, 2013

MASSACHUSETTS HEALTH POLICY COMMISSION

**THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE OF
MASSACHUSETTS HEALTH POLICY COMMISSION
Massachusetts State House, Gardner Auditorium
Boston, MA 02133**

Docket: Friday, April 26, 2013, 9:00 AM – 11:00 AM

PROCEEDINGS

The fourth meeting of the Massachusetts Health Policy Commission's Quality Improvement and Patient Protection Committee was held on Friday, April 26, 2013 at the Massachusetts State House, Gardner Auditorium, Boston, MA 02133.

Members present were Ms. Marylou Sudders (Chair), Dr. Carole Allen, Dr. Wendy Everett, Ms. Veronica Turner, and Dr. Ann Hwang on behalf of Mr. John Polanowicz, Secretary, Executive Office of Health and Human Services.

Executive Director David Seltz and General Counsel Lois Johnson also participated in the meeting.

Chair Sudders called the meeting to order at 9:00 AM and explained that the session would be dedicated to a regulatory hearing on the Health Policy Commission's draft guidelines for mandatory nurse overtime. The Committee members introduced themselves and Chair Sudders briefly outlined the Committee's work on this issue.

ITEM 1: Hearing on mandatory overtime for nurses

1. Massachusetts Nurses Association (MNA) panel
 - a. Donna Kelly-Williams, President of the MNA, testified that the only exception to the ban on mandatory nurse overtime should be a government declaration of emergency. She proposed several changes to the draft guidelines, including:
 - i. Narrowing who can define a "catastrophic event" to only the hospital CEO,
 - ii. Tightening the definition of "catastrophic event" to eliminate abuse of mandatory overtime where there is a seasonable and predictable widespread outbreak of disease,
 - iii. Deleting the definition of "patient care emergency",
 - iv. Adding a nurse's right to refuse mandatory overtime,
 - v. Defining the terms of a mandatory overtime stay (i.e. it should be used in only two hour blocks),
 - vi. Requiring disclosure of mandatory overtime to patients, and
 - vii. Promoting public transparency of instances where mandatory overtime has been ordered

- b. Karen Higgins, Co-President of National Nurses United, told her personal story about responding to the Boston Marathon bombings. She urged the Commission to adopt guidelines that keep patients safe and require the hospital industry to follow the spirit of the law prohibiting mandatory overtime.
- c. Commissioners
 - i. Chair Sudders lauded the extraordinary work by first responders at the Boston Marathon.
 - ii. Dr. Everett asked the MNO panel and Lois Johnson about the interaction between the Nurse Practice Act and Chapter 224.
 - 1. Donna Kelly-Williams said they would need to look into the question, but that the right to refuse speaks to a personal responsibility to keep patients safe under her license.
 - 2. Lois Johnson said that the Commission's guidelines must be consistent with the Nurse Practice Act and Chapter 224.
- d. Linda Condon, a member of MNA's Board of Directors and RN in the emergency department at Steward Morton Hospital in Taunton, urged the Commission to include a "right to refuse" in the guidance to ensure patient safety. She spoke about the 2001 union strike that ended use of mandatory overtime as a staffing practice at Brockton Hospital where she worked at the time.
- e. Commissioners
 - i. Chair Sudders cited language from the mandatory nurse overtime statute.
- f. Betty Sparks, a member of MNA's Board of Directors and RN at Newton Wellesley Hospital, spoke about her personal story of being at the finish line during the Boston Marathon bombings. She said that nurses always respond when there is a real emergency and that the guidelines should not allow hospitals to avoid complying with the law. She urged the Commission to include the right to refuse in the guidelines.
- g. Commissioners
 - i. Ms. Turner asked to hear more about Donna Kelly-Williams' suggestion to limit mandated overtime to blocks of two hours.
 - 1. A member of the panel responded that the goal is to encourage the hospital to maximize its effort to procure a replacement, ensure patient safety, and limit the number of hours of overtime that nurses are mandated to work.
 - ii. Ms. Turner asked about the hours of a typical nursing shift.
 - 1. A member of the panel said that typical shifts are either 8 or 12 hours.
 - iii. Chair Sudders asked the panelists to submit specific language that they would like to see in the guidelines.
- h. Colleen Wolfe, RN at UMass Memorial Medical Center, testified about her hospital's use of mandatory overtime to fill staffing gaps caused by workforce cuts during the past two years.

- i. Lisa Cargill, RN in the operating room on the Memorial Hospital campus of UMass Medical Center, expressed concern about the clause allowing mandatory overtime where there is an ongoing medical or surgical procedure. She said that elective cases should never be considered emergencies and that hospitals should never begin an elective surgery that will continue past the end of a nurse's shift.
 - j. Commissioners
 - i. Chair Sudders asked the MNA panel to step down and allow State Representatives and other panels to speak.
- 2. Representative Mary Keefe, 15th Worcester, praised the amazing work of nurses. She urged the Commission to limit hospitals' ability to avoid compliance with the spirit of the mandatory overtime law. She spoke in support of including a nurse's right to refuse in the guidelines.
- 3. Representative Denise Garlick, 13th Norfolk District, praised the work of the Commission. She spoke about her personal experiences as an acute care nurse and explained her involvement with the section on mandatory nurse overtime. She said that the section on mandatory overtime was designed to contain costs and improve quality of care by keeping patients safe and healthy. She said that real emergencies capture headlines and that patient care situations in hospitals are not emergencies. She urged the Commission to eliminate the language about "patient care emergency."
- 4. Heywood Hospital panel
 - a. Tina Santos, Chief Nursing Officer and Vice President of Operations at Heywood Hospital, said that her hospital strives for excellence, including through safe nurse staffing. She said that mandatory overtime is rarely used and it is never employed as a staffing strategy.
 - b. Justine DeFronzo, Director of Emergency Services, outlined the methods that her hospital uses to minimize the use of mandatory nurse overtime.
 - c. Christy Basil, Director of Inpatient Services, spoke about how Heywood Hospital stewards its staffing resources to support safe patient care.
 - d. Nancy Mallory, Nursing Manager and Manager of the ICU, testified about the proactive steps that the hospital takes to avoid mandatory overtime.
 - e. Commissioners
 - i. Dr. Everett asked how many incidents of mandatory overtime have occurred during the past year.
 - 1. Tina Santos replied that they had twelve hours of mandatory overtime during January and February, but zero in March.
- 5. Winchester Hospital panel
 - a. Kathy Schuler, President of the Organization of Nurse Executives and Chief Nursing Officer at Winchester Hospital, said that mandatory overtime is used as a last resort. She described the staffing practices that they use to avoid

mandating overtime. She thanked the Commissioners for including the definition of “patient care emergency” in the guidelines.

- b. Donna Sherrill, Director of Maternal and Child Health, related the story of a patient who had a traumatic experience at Winchester Hospital where a premature infant died but the mother’s life was saved.
- c. Lisa Cipriano, Nurse Manager of the Operating Room, explained how the real events in the story played out in regard to nurse staffing. No nurses needed to be mandated because there were volunteers.
- d. Commissioners
 - i. Chair Sudders asked how many hours of mandatory overtime have there been in the past year.
 - 1. A panelist responded that there have been 4 or 5 incidents between January 2013 and the present, with the longest lasting four hours and the shortest lasting two hours.

6. Massachusetts General Hospital panel

- a. Kevin Whitney, Immediate Past President for the Organization of Nurse Leaders of Massachusetts and Rhode Island and Associate Chief Nurse at MGH, said that the guidelines are balanced, fair, and prioritize patient safety. He noted that MGH supports collecting data on mandatory overtime.
- b. Commissioners
 - i. Chair Sudders urged the panelists from MGH to reach out to hospitals that appear to rely on mandatory overtime more often.
- c. Maureen Schneider, Nursing Director at MGH, described the strategies that her hospital uses to avoid mandating overtime and to maintain safe and effective staffing levels.
- d. Sally Millar, Director of Clinical Informatics at MGH, described the technological systems she uses to manage workloads and staffing schedules.
- e. Bonnie Kester, Chief Nurse and Vice President of Patient Care at Nantucket Cottage Hospital, was proud to say that her hospital has never used mandatory overtime, but she explained the need for flexibility to do so because of the shifting patient population on Nantucket.
- f. Commissioners
 - i. Chair Sudders inquired how many hours of mandatory overtime have they employed in the past year.
 - 1. Kevin Whitney said none.
 - 2. Bonnie Kester said none.
 - ii. Dr. Allen asked whether a size differential influences the use of specific tools to manage staffing and work flow.
 - 1. Panelists agreed that smaller hospitals could not manage or afford such sophisticated IT tools.

7. Resumption of MNA Panel

- a. Lorelei Belo-Ynayan, RN at Lenox Hill Hospital in New York City and Executive Board Member of New York Professional Nurses Union, spoke about the collective bargaining language they have in their contract with the hospital.

Since 1988, the contract has stated that “employees shall not be required to work overtime.” The hospital has been able to comply despite no exemption for emergency situations by employing effective staffing practices.

8. Provider Association panel

- a. Sharon Gale, CEO for the Organization of Nurse Leaders, testified that mandatory overtime should not be used as a staffing strategy and should only be used as a last resort, yet she advocated for flexibility to make staffing adjustments where patient safety requires it. The relationship between staff and management is critical to making staffing plans work. She said that other laws and regulations, such as EMTALA, require a hospital to treat patients, so flexibility is important in this context.
- b. Lorraine Schoen, Director of Clinical Affairs at the Massachusetts Hospital Association, testified that the Commission’s definition of “emergency situation” was reasonable, responsible, and consistent with standards in other states. She stressed the importance of flexibility for clinical decision-makers. She spoke about the importance of reporting and transparency.
- c. Commissioners
 - i. Chair Sudders thanked Lorriane Schoen about her comments on transparency.
- d. Christine Kluczwik, President-elect of the Organization of Nurse Leaders and Associate Chief Nurse at Cambridge Health Alliance, testified about the importance of good relationships and mutual understanding between nursing staff and management.
- a. David Matteodo, Executive Director of the Massachusetts Association of Behavioral Health Systems, congratulated the Commission on reasonable guidelines and expressed his support. Hospitals use mandatory overtime very rarely, but there is a government mandate to have a nurse in every unit, so that might be a situation in which a hospital would use it. He agreed with other panelists that flexibility is crucial.
- b. Commissioners
 - a. Chair Sudders thanked everyone for their participation and thoughtful comments. She said that that the Commission is striving to end the use of mandatory overtime but for exceptional circumstances. She explained that written comments would be accepted until 5 PM on May 10 and she outlined the process for approving the final guidance.

ITEM 2: Approval of minutes from April 3, 2013 meeting

Committee members approved the minutes unanimously.

ITEM 3: Closing

Chair Sudders thanked everyone for coming and adjourned the meeting at 11:00 AM.