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Panel OKs nurse overtime bill Proposal punishes hospitals for failure to develop policy

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The Senate Labor Committee has approved a bill to limit mandatory overtime for nurses.

Committee members have softened the penalties from the original version of the bill, but hospitals still don't like it.

"We're concerned about this becoming a regulatory oversight process that would be cumbersome and burdensome for the hospitals, as well as for the agencies that have to enforce it," Jill McDaniel, vice president of the West Virginia Hospital Association, said.

But Cheri Heflin, executive director of the West Virginia Nurses Association, said the bill is "very reasonable." That's also the opinion of Sen. Larry Rowe, who led a subcommittee that changed the penalties in the bill.

"What we want to do is to break the cycle of the hospital having mandatory overtime, driving nurses away from the profession and then always having a shortage," he said.

The original version of the bill included criminal penalties with fines from \$ 5,000 to \$ 20,000, but the revised version includes only civil penalties with enforcement by the Division of Labor. The administrative penalty for a first violation would be only a reprimand or notice to establish a plan of correction or both, while subsequent violations could include civil fines up to \$ 5,000.

Heflin said the only way a hospital would break the law is if it would fail to develop and post an overtime policy or force a nurse to work more than 16 hours in a 24-hour period without making a reasonable effort to bring in someone else. The bill also requires the hospital to give nurses who must work beyond their shifts time to make personal arrangements, such as for babysitters, she said.

"We moved considerably in trying to come up with something reasonable," Heflin said. "We heard the Hospital Association's complaints."

Rowe, D-Kanawha, said the bill's requirements would not apply in an emergency situation, when hospitals could require nurses to work around the clock, if necessary.

But McDaniel said the Hospital Association has been working for three years to develop policies to address the shortage of nurses in the work force and doesn't believe a new law to regulate overtime is needed or useful.

"We have not seen any evidence that it is a widespread problem," she said. "We have heard anecdotal stories about some nurses being required to work overtime in some facilities, but we don't have any evidence that it is a statewide problem or an epidemic or one that requires regulation to resolve."

But Heflin said the only way to attract more nurses to work at West Virginia hospitals and retain them is to improve their work environment.

”We have a nursing shortage because nurses are leaving the profession, and mandatory overtime is a key reason that nurses are leaving the profession,” she said.

Heflin said eight states have passed similar legislation, and 18 other states and Congress are considering it. Rowe said the Senate bill is “a commonsense approach” that he hopes can get through the Legislature.

”I think patients would feel better to know that the folks who are helping them are not forced into day after day of mandatory overtime,” he said. “The only thing that I think is going to change for most hospitals will be that they need to post the policies they already have in place.”

The Labor Committee added certified nursing assistants to the bill Wednesday before passing it onto the Judiciary Committee.

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