

**Testimony on HB 205**  
**Ohio Hospital Association**  
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**Paulding County Hospital**  
**House Health Committee**  
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Chairwoman Boyd, Members of the Committee, my name is Randal Ruge. I am a registered nurse and the Chief Operating Officer at Paulding County Hospital in Paulding, Ohio. I have been a registered nurse for 29 years. My background includes direct nursing care in the critical care setting of a tertiary care center, Chief Nursing Executive in large and small facilities, and I served a term on the Ohio Board of Nursing. In my current position I am responsible for the provision of patient care in nursing settings as well as care provided in other areas of the hospital by non-nurses such as radiology technologists. I appreciate the opportunity to provide comments on House Bill 205, legislation that would require hospitals and ambulatory surgical facilities to have a circulating nurse on hand for each surgical and invasive procedure and to require surgical technologists to work under the direct supervision of the circulating nurse. I appear before you today on behalf of myself and the Ohio Hospital Association (OHA). The OHA represents 177 member hospitals, 40 member health systems, and more than 1900 individual members throughout Ohio.

The OHA believes HB 205 is inconsistent with requirements hospitals are currently required to meet in order to be accredited by The Joint Commission (TJC) and to meet the Medicare Conditions of Participation established by the Centers for Medicare and Medicaid Services (CMS). The Joint Commission does not mandate specific staffing levels but instead requires nurse executives to establish nursing policies and procedures, nursing standards, and nurse staffing plans that are designed to result in high quality patient care and improved patient outcomes. CMS' Condition of Participation 42 C.F.R. 482.51(a)(1) requires operating rooms to be supervised by an experienced registered nurse *or* a physician. Furthermore, CMS' Condition of Participation 42 C.F.R. 482.51(a)(2) provides that licensed practical nurses and surgical technologists *may (but are not required by law to)* serve as "scrub nurses" under the supervision of a registered nurse. In addressing staffing requirements in the manner that both TJC and CMS have done, both of these regulatory entities have acknowledged that hospitals need to have the flexibility to address their staffing needs and the needs of their patients in ways that will provide the best care for patients. Rigid staffing mandates such as HB 205 unnecessarily tie the hands of hospitals and caregivers and do not serve the needs of patients.

OHA and its affiliated society, the Ohio Organization for Nurse Executives (OONE), support the safe staffing of nurses to provide for high quality care delivery in an environment that is safe for nurses and patients. However, OHA and OONE have consistently opposed legislative proposals that set a troubling precedent of imposing mandatory staffing requirements in statute because the complex variables involved in ensuring safe staffing do not fit a one-size-fits all approach. Therefore, although we are unaware of any hospitals in Ohio that do not use circulating nurses in operating rooms, the OHA and OONE cannot support legislative mandates regarding nurse staffing

because such mandates do not allow for the flexibility necessary to meet changing patient care needs. I believe that mandatory staffing requirements such as those set by HB 205 are a poor method for determining appropriate staffing because of the lack of scientific support for mandatory staffing levels. I believe that adequate staffing should be based on the complexity of care required by the patient, and that direct caregivers and other hospital staff are in the best position to determine what levels of staffing are appropriate on a case-by-case basis to ensure the best interest of patients are met.

In addition, HB 205 goes far beyond simply mandating staffing in a hospital's operating room, as the bill also requires a circulating nurse to be in the room for all procedures performed *in an invasive procedure room*. This requirement will be very burdensome for hospitals, as even the most routine procedures performed in an invasive procedure room will require a circulating nurse to be present. This will create terrible inefficiencies and unnecessary expenses in hospitals, result in delays in patient care, and require redundant staffing that will not improve the quality of care received by patients. Simple invasive procedures such as needle localization of breast tissue are currently performed by a radiologist with the assistance of a radiology technologist. If HB 205 is enacted, such simple invasive procedures would require both a circulating nurse and a scrub person. Similarly, collection of a bone marrow specimen is currently performed by a physician who is assisted by a laboratory technologist. This simple invasive procedure would also require a circulating nurse and scrub nurse if HB 205 becomes law. Furthermore, nerve blocks performed by a physician and radiology technologist would also be subject to this burdensome requirement imposed by HB 205. Physicians performing procedures in their hospital based offices would also have to meet the requirement.

Many hospitals are in the throes of a significant nursing shortage that is predicted to worsen. In recent weeks I advertised for a surgery nurse and received no replies from experienced nurses. This legislation will place hospitals in the position of having to postpone procedures due to a lack of qualified nursing staff. The additional costs for adding staff will add significantly to the financial crisis with which many hospitals are currently struggling.

Further, the legislature recently took meaningful action in 2008 to strengthen hospital staffing practices without mandating specific staffing requirements. House Bill 346 was passed last year to require hospitals to create staffing committees and staffing plans to ensure adequate staffing is available to meet changing patient care needs. HB 346 also requires registered nurses who provide direct care in the hospital to make up a majority of the staffing committee. HB 346 was the result of thoughtful legislative work by the House and Senate and an unprecedented collaboration between the OHA, OONE, and the Ohio Nurses Association. The OHA and OONE believe that HB 346 is sufficient to adequately address hospital staffing needs and should be given a chance to work before the legislature imposes other burdensome mandatory staffing requirements on hospitals.

Finally, if HB 205 were to become law, hospitals and patients could suffer some very negative unintended consequences. For example, consider the impact this bill could have in situations where hospitals are providing emergency care or engaging in life-saving interventions. Imagine a major trauma where we are faced with four patients and three registered nurses. In order to meet the requirements of HB 205, should we delay that

fourth patient's surgery until a circulating nurse becomes physically present in the operating room? Or should we safely shift our staffing resources to allow our nurses to move and respond to the emergency? Doing so would violate Ohio law if HB 205 becomes the law. As you know, delaying patient care in such a situation would jeopardize the patient's life and subject providers to potentially huge liability. We believe hospitals should continue to have the flexibility to respond to changing patient needs, rather than be bound by rigid staffing requirements that do not reflect the realities involved in providing surgical care or other invasive care, whether on a non-emergent or emergent basis.

The most effective health care quality and safety improvements occur when hospitals implement, and caregivers follow, specific processes that have been scientifically proven to improve outcomes. Mandated staffing levels are not scientifically proven to improve outcomes. In fact, existing data and outcomes make it possible to develop evidenced-based outcomes into the practices and culture of the hospital rather than simply relying on unproven inputs such as staffing mandates. OHA has implemented several regional quality collaboratives in Ohio, whereby hospitals across the state are working together to improve outcomes with respect to a variety of health conditions. In addition, hospitals statewide are participating in CMS, TJC, and state-required quality reporting initiatives, all of which show hospitals' compliance with measures that have been proven to improve patient outcomes. These reporting initiatives are part of hospitals' ongoing effort to improve the quality of care they provide by focusing on scientifically proven methods. Again, mandated staffing requirements are not a scientifically proven method of improving patient care or patient outcomes.

In closing, patient safety is always the top priority in operating rooms and invasive procedure rooms. However, mandating staffing patterns in statute does not provide medical personnel with the flexibility that is needed in real life situations to ensure the delivery of high quality patient care.

Madam Chairwoman and members of the committee, I welcome an opportunity to answer any questions you may have. Thank you again for the opportunity to testify.