MINUTES OF THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE

Meeting of February 22, 2013

MASSACHUSETTS HEALTH POLICY COMMISSION

THE QUALITY IMPROVEMENT AND PATIENT PROTECTION COMMITTEE OF THE MASSACHUSETTS HEALTH POLICY COMMISSION
Worcester Recovery Center and Hospital Conference Center
309 Belmont St., Worcester, MA 01605

Docket: Friday, February 22, 2013, 9:00 AM – 11:00 AM

PROCEEDINGS

The second meeting of the Massachusetts Health Policy Commission's Patient Protection and Quality Improvement Committee was held on Friday, February 22, 2013 at Worcester Recovery Center and Hospital Conference Center, 309 Belmont St., Worcester, MA 01605.

Members present were Chair Marylou Sudders, Dr. Carole Allen, Dr. Wendy Everett, and Ms. Veronica Turner.

Members absent were John Polanowicz, Secretary, Executive Office of Health and Human Services.

Chair Sudders called the meeting to order at 9:00 AM. Each of the committee members introduced themselves, as did Commission Executive Director David Seltz and General Counsel Lois Johnson.

ITEM 1: Listening Session on Mandatory Overtime for Hospital Nurses

Chair Sudders introduced the focus of the listening session, Section 103 of Chapter 224 of the Acts of 2012, which added a new section, Section 226 of Chapter 111 of the General Laws. She reviewed the responsibility of the Commission regarding this section, according to Chapter 224, Section 103, to "develop guidelines and procedures to determine what constitutes an emergency situation for the purposes of allowing mandatory overtime." Chair Sudders noted that the Commission's role was limited to defining "emergency situation" after consulting with "employees and employers who would be affected by such a policy."

Chair Sudders outlined key questions of interest for the Commission, including: How do hospitals or nurse managers develop nurse staffing plans or schedules? What examples of emergency situations have hospitals faced that required the use of mandatory overtime for nurses? In such situations, what were the considerations around patient safety? What would be some examples of "reasonable alternatives" to mandatory overtime? How is mandatory overtime addressed in different collective bargaining agreements?

The following members of the public provided oral testimony:

1. Representative Mary Keefe, 15th Worcester District, spoke in support of the Mass Nurses Association proposed definition of "emergency situation".

2. Massachusetts Nurses Association (MNA) panel
    a. Karen Coughlin, Vice President, testified that hospitals are deliberately understaffing to cut costs and using mandatory overtime to fill the gaps. She cited peer-reviewed scientific studies showing that mandatory overtime for nurses resulted in worse patient care. She urged that only a third party not connected with a hospital should have the power to declare an emergency situation. She described a reporting system implemented by the MNA that revealed nearly 200 uses of mandatory overtime during the past 107 days.
    b. Ann Marie McDonagh, RN at Tufts Medical Center, spoke about the threatened nurses strike in 2011 that resulted in an agreement to limit mandatory overtime. She urged the Commission to take the decision out of hospitals' direct control.
    c. Marie Ritacco, RN at St. Vincent Hospital, testified about the strike in 2001 that resulted in a collective bargaining agreement that limited mandatory overtime
    d. Kathy Metzger, RN at Brockton Hospital, spoke about the 2001 union strike that ended use of mandatory overtime as a staffing practice at her hospital.
    e. Colleen Wolfe, RN at UMass Memorial Medical Center, echoed the concerns of her MNA colleagues and spoke about her hospital's use of mandatory overtime to fill staffing gaps caused by workforce cuts during the past two years.
    f. Questions
        i. Committee members asked for copies of the collective bargaining agreements
        ii. Executive Director David Seltz asked about the driver of hospitals' use of mandatory overtime as revealed by the MNA's reporting mechanism. Julie Baker, Executive Director of MNA, responded that most of the mandated overtime stemmed from RNs calling in sick, which created holes in the staffing scheduling.
        iii. David Seltz asked how the collective bargaining agreements (CBAs) dealt with issues of increased census or late sick calls. MNA representatives responded that the CBAs motivated better staffing policies, which resulted in fewer scheduling gaps. Hospitals must ask for volunteers first, but there are limits on who can be mandated and for how long.
        iv. Dr. Carole Allen inquired whether an internal emergency within a hospital could warrant mandatory overtime. MNA responded that nurses are happy to step up in real emergencies, as they did during the recent snowstorm. An internal problem may raise to the level of MNA's definition if it alters the health needs of the public, which would be a very rare occurrence.
        v. A commissioner asked what third party should be able to declare an emergency where there's an internal disaster. MNA said that the hospital should contact MEMA and other state or municipal agencies and not try to handle the situation on its own.

3. AFL-CIO and community advocates panel
    a. Tilly Ruth Teixeira, a leader with the Mass Senior Action Council, urged the Commission to adopt the MNA's proposed definition because seniors and other vulnerable people suffer worse health outcomes when their health workers are overtired and overworked.
    b. Sandy Russo, a leader with the Coalition for Social Justice, spoke in support of MNA's definition of emergency situation.
    c. Terry Cherie, a leader with Neighbor to Neighbor, told a personal story about her ill husband receiving care from an overtired nurse who was mandated to stay on after his shift.
    d. Steven Tolman, President of the Massachusetts AFL-CIO, advocated for the Commission to adopt MNA's definition of emergency situation because hospital understaffing is not a real emergency.
    e. Questions
        i. Chair Sudders asked what third-party should be authorized to declare an emergency situation. Mr. Tolman responded that it should be a party external to the hospital, such as the Governor, and he offered an example of the driving ban during the recent snowstorm.

4. Organization of Nurse Leaders and Hospitals Panel
    a. Sharon Gale, CEO for the Organization of Nurse Leaders, testified that mandatory should not be used as a staffing strategy and should only be used as a last result, yet she advocate for flexibility to make needed staffing adjustments where patient safety demands it.
    b. Lorraine Schoen, Director of Clinical Affairs at the Massachusetts Hospital Association, advocated for the basic definition of emergency situation that was written in the statute because hospitals need adequate staffing to ensure patient safety.
    c. David Matteodo, Executive Director of the Massachusetts Association of Behavioral Health Systems, spoke in support of MHA and ONL's definition of emergency situation. He outlined the procedure that hospitals follow prior to mandating overtime and said that hospitals should have discretion to order, though they should do so rarely.
    d. Questions
        i. Veronica Turner asked whether a schedule posted with 40-60 holes would allow hospitals to mandate. Lorraine Schoen responded that vacancy rates are very low and have been decreasing and that these situations are specific to individual hospitals.
        ii. David Seltz inquired about the prevalence of floating pools across hospitals. Ms. Schoen answered that use of such pools is not uniform across every hospital and that they track this information in a joint MHA/ONL survey. She stressed that hospitals' workloads are unpredictable and that they must staff to those variations.
        iii. David Seltz questioned whether hospitals track use of mandatory overtime. Panelists responded that hospitals do so, but that there is

no mechanism to report this information to the Department of Public Health.

5. Advanced Practice Nurses Panel
    a. Maryalice Stamer, Member of the Board of Directors for the Massachusetts Coalition of Nurse Practitioners, advocated for a definition of "nurse" that excludes advance practice nurses and NPs.
    b. Donnell Carter, President of the Massachusetts Association of Nurse Anesthetists, spoke in support of MNA's definition, but he urged the Commission to adopt a definition of "nurse" that excludes Certified Registered Nurse Anesthetists and other advance practice nurses.
    c. Questions
        i. Veronica Turner questioned whether the panelists meant to exclude anyone with the relevant credentials, or only those who practiced in such roles. Both panelists agreed they were concerned about NPs and CRNAs who were working in those specific practice areas, rather than those with credentials working as regular RNs.

6. 1199SEIU
    a. Louise Bucchiere, an RN and member of 1199SEIU, endorsed MNA's definition of "emergency situation." She asserted that the definition should apply to all hospitals and all nurses and urged that Sec. 226 should serve as a "floor" that supersedes any collective bargaining agreement providing less protection.
    b. Questions
        i. General Counsel Lois Johnson asked how often mandatory overtime is required on Ms. Bucchiere's 40-bed floor. She responded that it happens only 3-4 times per year, but that it is always stressful when it occurs. Celia Wcislo, Assistant Division Director and Vice President At-Large of 1199, said that nurses are mandated to work overtime more often in some other hospitals, including Bridgewater State Hospital where it has been happening on a weekly basis.
        ii. Chair Sudders inquired which hospitals should be included in "all hospitals." Panelists responded that the terms should encompass rehab hospitals, those for the criminally insane, state hospitals, and all acute care hospitals.

7. Nurse executives panel
    a. Kathy Schuler, President of the Organization of Nurse Executives, urged the Commission to remain with the current definition of "emergency situation" as it appears in the law. She said that mandatory overtime should never be used as a routine staffing tool and she then outlined successful methods employed by Winchester Hospital that largely avoid the need to mandate overtime.
    b. Kevin Whitney, Immediate Past President for the Organization of Nurse Leaders of Massachusetts and Rhode Island, agreed that mandatory overtime should not be used routinely, but he asserted that hospitals and nurse

leaders need flexibility to order it in rare circumstances. He could not remember the last time someone was mandated to work overtime in his practice at Massachusetts General Hospital.

c. Bonnie Kester, Chief Nurse and Vice President of Patient Care at Nantucket Cottage Hospital, was proud to say that her practice has never used mandatory overtime, but she advocated for the flexibility to do so where needed.
d. Tina Santos, Chief Nursing Officer and Vice President of Patient Care at Haywood Hospital, said that mandatory overtime is a needed flexibility tool that should be used rarely. She outlined the methods that her hospital uses to minimize its use.
e. Christine Kluczwik, President-elect of the Organization of Nurse Leaders and Associate Chief Nurse at Cambridge Health Alliance, asserted that her hospitals use the same strategies described by others on the panel and she urged the Commission to adopt the current definition.
f. Questions
    i. Veronica Turner asked whether hospitals ever revisit the budget process where unintended consequences arise do to layoffs or volume surges. Panelists responded that their hospitals set a budget once per year and do ongoing monitoring that can motivate adjustments to staffing mix depending on the circumstances.

ITEM 2: Approval of minutes from January 16, 2013 meeting

Committee members approved the minutes unanimously.

ITEM 3: Closing

Chair Sudders thanked everyone for coming and asked anyone who had additional commentary or testimony to send it to the Commission. She adjourned the meeting at 11:00 AM.