

The “Re-Empowerment of Skilled and Professional Employees and Construction and Tradeworkers (RESPECT) Act” S. 969/H.R. 1644

Issue Reps. Rob Andrews (D-NJ) and Rosa DeLauro (D-CT) have introduced legislation (H.R. 1644) that would amend the National Labor Relations Act (NLRA) and reverse NLRB guidance on when charge nurses are supervisors. The Senate companion bill (S. 969) is sponsored by Senators Dick Durbin (D-IL), Ted Kennedy (D-MA) and Chris Dodd (D-CT). AHA strongly opposes this legislation.

The bill, entitled the “Re-Empowerment of Skilled and Professional Employees and Construction and Tradeworkers (RESPECT) Act” amends the definition of “supervisor” in the *National Labor Relations Act* (NLRA) by removing two functions that classify a charge nurse as a supervisor: "assigning" and "responsibly directing" other staff. The bill also adds language requiring supervisors to spend a majority of their worktime performing the remaining functions under the definition. Section 2(11) of the NLRA currently defines a “supervisor” as follows:

“The term “supervisor” means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.” [29 USC §152(11)]

Because charge nurses are often the most visible individuals “in charge” of a hospital unit using their judgment and discretion to evaluate and match patients and staff skills, and to step in when there is a crisis or conflict, it is essential that charge nurses perceive themselves, and that others perceive them, as a supervisor and part of hospital management. If the bill is enacted, charge nurses who are supervisors would no longer be exclusively the employer's voice in labor-management relations during union organizing campaigns, grievances and labor disputes. Even in carrying out day-to-day operations, nurse supervisors would be subject to union control, work rules, fines and other forms of union discipline for crossing a picket line or continuing to work during a work stoppage.

View

- **The legislation fails to recognize the important and unique role charge nurses play in hospitals meeting quality and patient safety commitments. It undermines the hospitals' ability to depend on charge nurses to ensure continuity of care. We strongly oppose this legislation.**
- **The NLRB guidance strikes a reasonable balance in setting the criteria for when charge nurses function as supervisors. Not every charge nurse is a supervisor: it's the responsibilities that make the difference. S. 969/H.R. 1644 does not recognize that distinction.**
- **NLRB guidance recognizes that charge nurses exercise independence and discretion in making critical judgments about patient care. A charge nurse assesses the acuity of a patient's illness as well as which staff has the skill sets to best care for the patient. When serving in that role the charge nurse acts on behalf of the hospital providing a management/leadership voice to patients, families and other employees.**
- **Hospitals never know who or how many patients will walk through their doors on any given day. The women and men in hospitals stand ready to treat flu outbreaks, highway accidents and scores of other unknown emergencies that can erupt on a daily basis. It is essential charge nurses be recognized for the challenging, complex role they assume.**