

July 19, 2019

#### Urge Your Aldermen to Include IHA's Changes to Substitute "Fair Workweek" Ordinance and Oppose as Currently Drafted

IHA continues to work aggressively for critically needed revisions in the Fair Workweek Ordinance proposal (O2019-3928) to mitigate the adverse impacts on hospitals and access to healthcare. While some improvements have been made in the latest substitute ordinance, they do not go far enough and *IHA opposes the substitute ordinance as currently drafted*. The City Council's Committee on Workforce Development is expected to vote on the ordinance on Monday, July 22, with the full City Council voting on the proposal Wednesday, July 24.

**ACTION REQUESTED:** Contact or meet with your Alderman NOW and urge him/her to: 1) oppose the substitute ordinance as currently drafted; and 2) contact Samantha Fields in the Mayor's Office and urge her to include IHA's recommended revisions in the substitute ordinance. To email or call your Alderman, [click here](#). Also, send your Alderman a copy of today's *Chicago Tribune* editorial urging the Mayor to "Soften the blow to Chicago employers" ([click here](#) to download or print).

IHA's most critical proposed changes are:

- Limit "Covered Employees" to hourly workers making less than \$24/hour and non-exempt salaried employees with an annual full time equivalent salary of less than \$50,000;
- Clarify that employees may request to be offered additional shifts to address unanticipated needs that are outside the employer's control;
- Add an exception for circumstances outside the control of a healthcare employer that will substantially affect or increase the need for healthcare services; and
- Limit the penalties and private right of action to situations where the employer engages in a repeated pattern or practice of violating the ordinance.

#### Status of Negotiations

- On July 17, 2019, the Mayor's Office released a "Working Draft Substitute Fair Workweek Ordinance" for comment. While the "July 17 Draft Substitute Ordinance" makes improvements from the May 29, 2019 proposed ordinance, it continues to present significant concerns for hospitals and, as drafted, will adversely impact access to healthcare, increase healthcare costs and diminish economic growth, especially in Chicago's most vulnerable communities.
- On July 18, 2019, IHA submitted detailed comments and suggested changes to the July 17 Draft Substitute Ordinance to the Mayor's Office to mitigate the most problematic aspects of the Ordinance ([click here](#) to see the full document).
- On the evening of July 18, IHA's senior leadership discussed IHA's proposed changes with a senior official of the Mayor's Office. Based on that discussion and the lack of any further communication this morning, it is uncertain whether the Mayor's office is inclined to accept IHA's proposed changes. *Consequently, it is critical that hospitals advocate for the reasonable changes proposed by IHA to mitigate the most detrimental aspects of the "July 17 Draft Substitute Fair Workweek Ordinance".*

#### Suggested Talking Points

- My hospital and hospitals across Chicago strongly oppose the substitute "Fair Workweek" Ordinance as currently drafted, which still does not include critical changes recommended by the Illinois Health and Hospital Association.
- I urge you to oppose the substitute ordinance as currently drafted – and I ask that you contact Samantha Fields in the

Mayor's Office and urge her to incorporate IHA's recommended changes in the substitute ordinance.

- IHA and the hospital community have been negotiating in good faith to find a balanced and workable middle ground on key issues important to healthcare employees and hospitals – and ask that several critical changes be made to the ordinance:
  - Limit “Covered Employees” to hourly workers making less than \$24/hour and non-exempt salaried employees with an annual full time equivalent salary of less than \$50,000;
  - Clarify that employees may request to be offered additional shifts to address unanticipated needs that are outside the employer's control;
  - Add an exception for circumstances outside the control of a healthcare employer that will substantially affect or increase the need for healthcare services; and
  - Limit the penalties and private right of action to situations where the employer engages in a repeated pattern or practice of violating the ordinance.
- Without these critical changes, there will likely be adverse impacts on hospitals' clinical operations – undermining the timely and efficient delivery of healthcare to Chicagoans.
- The requirements of the ordinance are so burdensome, they could also force hospitals to reduce or eliminate services and lay off staff.
- The ordinance's very restrictive requirements are unworkable and impractical for hospitals given unpredictable shifts in patient volumes and acuity – and the requisite staffing needs.
- For example, if there were a major disaster or incident in Chicago – e.g., a heat wave, a chemical spill, fire, car wreck, active shooter, mass violence – many hospitals would receive an influx of patients needing critical life-saving care.
- To ensure that the hospitals are fully staffed to meet this unplanned demand, additional nurses, technicians and support staff must be called in on very short notice.
- But under the ordinance, hospitals would be forced to pay a penalty for every employee who is called in – or they would be forced to go short-staffed and risk the health and safety of their patients or go on emergency bypass and force sick or injured patients to be transported to another hospital, wasting precious time they may not have.
- Our hospital is strongly committed to supporting our healthcare workers in providing them a good, stable, professional work environment -- with flexibility in their schedules and good benefits. We also help train and advance our employees from entry-level or part-time jobs to higher-level, higher-paying, full-time jobs throughout their careers in healthcare.
- Hospitals across Chicago have unique needs and demands and must have the flexibility to align and deploy their employees to provide timely, quality healthcare to patients, but the restrictive scheduling proposal as currently drafted would unnecessarily jeopardize the ability of hospitals to meet those needs. And it would impose rigid work schedules on our healthcare employees.
- For all of these reasons, I urge you to oppose the substitute “Fair Workweek” ordinance as currently drafted, and to contact Samantha Fields in the Mayor's Office and urge her to include IHA's recommended revisions in the substitute ordinance.

#### Background – Requirements of the Chicago Fair Workweek Ordinance Proposal

- The ordinance applies to certain Chicago employers and to all hourly employees earning less than an amount yet to be determined, but the Mayor's Office is suggesting \$30-\$35 per hour – as well as all salaried employees earning less than \$50,000 a year.
- Chicago employers must post work schedules for their employees at least 10 days in advance from April 1, 2020 to March 31, 2022; and at least 14 days in advance beginning April 1, 2022.
- Employers must pay their employees for at least one additional hour of “predictability pay” if the work schedule changes or if work hours are added or subtracted.
- If work hours are canceled or reduced with less than 24 hours' notice, the employer must pay the employee no less than one-half times the employee's regular hourly pay rate for any scheduled hours that the employee does not work.
- Employees have the right to decline unscheduled hours that an employer adds if the employee has received less than 10 days' notice of the additional hours from April 1, 2020 to March 31, 2022; and less than 14 days' notice beginning April 1, 2022.

- An employee has the right to decline shifts that occur during the 10 hours following the end of a shift.
  - Before hiring new employees or contract employees, including the use of a temporary or staffing agency, an employer must first offer additional hours to existing employees.
  - Employers must provide newly hired employees, in writing prior to or on the commencement of employment, an estimate of the median number of hours they are expected to work and their work schedule.
  - Employers face fines of \$300 for each affected employee in each pay period for each day that the employer failed to comply with the ordinance, plus administrative enforcement costs and attorney fees.
  - In addition to enforcement by the City, an employee may file a civil lawsuit to enforce the ordinance and may recover the payment of required predictability pay, the fine, punitive damages, injunctive relief, and costs and attorney's fees.
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