New York City Council Committee on Hospitals

Hearing Testimony: "Safe staffing ratios in hospitals"

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Introduction

Chair Rivera, Council Members Levine, Ayala, Moya, Reynoso, Eugene, and Maisel, my name is Lorraine Ryan, Senior Vice President for Legal, Regulatory, and Professional Affairs at the Greater New York Hospital Association (GNYHA). GNYHA's members include every hospital in New York City (both public and not-for-profit) as well as hospitals throughout New York State, New Jersey, Connecticut, and Rhode Island.

Thank you for the opportunity to speak at this hearing. New York's hospitals, GNYHA, and I, as a nurse, have the deepest respect and admiration for our registered nurses (RNs), but we strongly oppose forced, inflexible nurse staffing ratios. The bill before the State Legislature (A.2954/S.1032) mandates unit-based ratios, at all times, in all hospitals and nursing homes in New York State.

My responsibilities at GNYHA include oversight of clinical quality improvement initiatives and programming. I can say without reservation that New York's health care providers are deeply committed to providing safe, high-quality care that leads to the best possible health outcomes. But no hospital or nursing home is exactly alike, and no single staffing formula works in every situation. Legislation mandating nurse staffing ratios belies the proven ability of hospitals and unions to agree on staffing plans on their own through good-faith contract negotiations, as was done earlier this year between several New York City hospitals and the New York State Nurses Association (NYSNA).

Forced nurse staffing ratios would crowd out other essential members of the health care team, undermine real-time patient care decisions, and deny hospitals the workforce flexibility they need to respond to emergencies. Health care delivery has never been more complex, and we have learned that the only way to ensure optimal outcomes of care is through a multidisciplinary approach that involves not only nurses and physicians, but also physical therapists, dieticians, clinical pharmacists, lab technicians, social workers, and others. Mandatory nurse staffing ratios that must be met at all times would force hospitals, many of which already operate with scarce resources, to eliminate these other team members, who are essential to delivering safe and effective care.

It would cost New York's hospitals and nursing homes a staggering $3 billion annually to comply with the nurse staffing ratios bill—money they don't have for a mandate they don't need. Many of these financially struggling institutions would be forced to reduce services, lay off staff, or even close their doors for good, impacting access to care for those with the most need. Our principal objections to this deeply misguided legislation are described below.

Quality Care Is About Teamwork

A high-performing health care team is widely recognized as an essential tool in the delivery of patient-centered, coordinated, effective health care.[1] In a 2019 evaluation by the Centers for Medicare & Medicaid Services (CMS), New York ranked second among all CMS Partnership for Patients contractors on reducing hospital-acquired conditions and readmissions.[2] This is because of New York hospitals'

[1] Mitchell, P, et al., "Core Principles and Values of Effective Team-Based Health Care," *Institute of Medicine of the National Academy of Sciences* (October 2012).
[2] Mathematica Policy Research, Program Evaluation Contractor, "Formative Feedback Report, Submitted to the Department of Health and Human Resources, Centers for Medicare & Medicaid Services" (April 2019).

multidisciplinary, team-based approach to health care delivery, which includes physicians, nurses, pharmacists, physical therapists, dieticians, environmental services workers and others. By working together, these teams have delivered tremendous results for patients. The 2017 New York State Department of Health *Hospital-Acquired Infections Reports* documents reductions ranging from 2% to 21% in surgical site infections, catheter-associated urinary tract infections, and Methicillin-resistant Staphylococcus aureas (MRSA). These improvements are the result of multidisciplinary teams of health care professionals working together to implement evidence-based best practices.[3]

Forced nurse staffing ratios will crowd out other essential members of the health care team and compromise high-quality patient care. That is one of the reasons the RN who chaired President Obama's National Health Care Workforce Commission called staffing ratios a "bankrupt idea."[4]

In November 2018, Massachusetts voters, by a resounding margin of 70% to 30%, rejected a ballot initiative to impose nurse staffing ratios on Massachusetts hospitals. They determined that nurse staffing ratios would be cost prohibitive, lead to hospital closures, eliminate high cost-service lines, increase wait times, reduce non-health care workforce staffing, and compromise access to care.

Leave Staffing Decisions to the Experts

Chief Nursing Officers (CNOs) and their experienced leadership teams are responsible for ensuring that appropriate staffing plans are in place on all units, and at all times, in their hospitals. Nurse staffing ratio legislation would eliminate that invaluable expertise and replace it with rigid, arbitrary staffing levels that must be maintained at all times, even during breaks, depriving these professionals of the flexibility necessary to respond, in real time, to the needs of their patients.

Hospitals and CNOs need the flexibility to prepare for and manage the unexpected—unplanned absences, natural disasters, power failures, other emergencies, etc.—and adjust staffing accordingly. Emergency situations brought on by weather, seasonally related disease onset (e.g., influenza), the recent uptick in emergency department (ED) visits caused by measles, and other emergency situations often require special units to isolate patients and prevent the spread of disease, as well as reassigning staff to deal with unique circumstances. Forced nurse staffing ratios would make it very difficult for hospital leaders to respond effectively to these situations.

Recent contract negotiations between NYSNA and several hospitals in New York City resulted in a commitment to maintain the number of nurses per unit, per shift via agreed-upon staffing plans. The ratified contracts also include a provision giving hospital nursing leadership and RN staff the flexibility to allocate patients among nurses according to their professional determination of appropriate patient care.

In addition to recognizing the need for flexibility in staffing, the hospitals and NYSNA agreed to fill vacant positions and hire additional RNs who will be included in staffing plans, resulting in an increase in

[3] New York State Department of Health, *Hospital Acquired Infections in New York State, 2017 Report, Summary for Consumers* (October 2018).
[4] Douglas, K., Kerfoot, K. M., "A Provocative Conversation with Peter Buerhaus," *Nursing Economics* (July-August 2011).

the nursing workforce at each hospital. With the input of RN staff, the additional nurses will be allocated as necessary by a drop or increase in patient census or acuity affecting patient and staffing needs.

These hospitals also agreed to create RN float pools to respond to sick calls, leaves of absence, and other unplanned staffing needs, retaining the flexibility for nursing leadership and RN staff to allocate patients among nurses according to their professional determination of appropriate patient care. The hospitals and NYSNA also agreed to the enforcement of staffing guidelines to address systemic failure to meet the guidelines, and use of a third-party mediator and dispute resolution procedures, when and if necessary.

Studies: Ratios Don't Improve Care

California is the only state in the nation that imposes forced RN staffing ratios on every unit of every hospital, but more than a decade after the law was implemented, there is no credible evidence that patient care has improved.

According to a 2013 study in *Medical Care and Research Review*, "California's minimum nurse-to-patient staffing regulations were intended to improve the quality of patient care, but to date there is only mixed evidence that they achieved this goal." The study concluded with a warning that "policy makers should tread cautiously as they consider new nurse staffing regulations."[5]

Even after more than a decade of nurse staffing ratios in California, several national databases show comparable hospital quality in New York and California, and some show New York hospitals performing better than California hospitals. A 2013 study describes the impact of the California law on patient level outcomes as mixed, and the findings suggest the positive impacts have not been as significant as predicted.[6] In 2015, Dave Regan, president of SEIU United Health Workers West in California, said ratios "have not improved patient care" and have "forced hospitals to downsize."[7] The bottom line: there is no reliable evidence that nurse staffing ratios improve patient care.

Earlier this year, the New York State Legislature charged the New York State Department of Health with conducting a study to ensure safe patient safety in hospitals and nursing homes. The study will examine how staffing enhancements and other initiatives can be used to improve patient safety and the quality of health care delivery, as well as their potential fiscal impact.

Ratios Will Cost Billions, Threaten Jobs, and Damage Labor Peace

It would cost New York's hospitals an estimated $2 billion annually, and nursing homes $1 billion annually, to comply with nurse staffing ratios. Hospitals would have no choice but to cut costs. Fewer positions would remain for non-RN members of the care team, and RNs would be forced to perform more and more non-clinical tasks ordinarily done by other care team members, such as transporting patients and administrative work. Many financially struggling institutions would have no choice but to cut non-RN positions.

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[5] Spetz, J., Harless, D.W., Herrera, C.N., Mark, B.A. "Using Minimum Nurse Staffing Regulations to Measure the Relationship between Nursing and Hospital Quality of Care" *Medical Care Research Review* (2013).
[6] Serratt, T., "California's Nurse-to-Patient Ratios, Part 3: Eight Years Later, What Do We Know about Patient Level Outcomes?" *The Journal of Nursing Administration* (November 2013)
[7] Goldberg, D., "Health Union Split Complicates Nurses Jobs Push" *Politico* (March 30, 2015).

That is exactly what happened in California. After forced nurse staffing ratios went into effect in 2004, significant tension between unions representing nurses and those representing other types of health care workers emerged, and non-nurses have feared the loss of jobs. Nurse staffing ratios will create tension in New York between and among caregivers who must work together to improve quality and reduce costs.

Ratios Would Increase ED Wait Times and Impact Access to Care

Compliance with forced 24/7 nurse staffing ratios would lead to increased wait times in EDs.[8] This could force hospitals to go on diversion for ED arrivals in the event of a mass casualty or other emergency involving a large number of people. The cost of complying with forced nurse staffing ratios could preclude hospitals from taking steps to reduce ED wait times such as hiring additional primary care doctors and specialty physicians, upgrading existing infrastructure, and investing in new or expanded facilities. This is particularly problematic because hospitals are currently working to reduce avoidable ED visits as part of the State's Delivery System Reform Incentive Payment (DSRIP) program. As part of DSRIP, hospitals collaborate with ambulatory care and other community-based providers to reduce avoidable hospital use and expand outpatient services. Forced nurse staffing ratios would threaten to undo the work that hospitals and other providers have already done to ensure that their communities have greater access to health care services in the most appropriate settings.

Staffing Rules Already Exist

Forced nurse staffing ratios are unnecessary because multiple staffing rules are already in effect. New York State regulations require the director of nursing services to develop a staffing plan, approved by the governing body, for determining the types and number of nursing personnel and staff necessary to provide nursing care for all areas of the hospital. Federal authorities survey hospital staffing, and New York State law requires the disclosure of staffing plans and quality indicators—information that is available to anyone upon request.

Conclusion

Staffing levels are best made in real time by expert, experienced clinicians. This is also why the American Nurses Association and the American Organization of Nurse Executives oppose forced nurse staffing ratios.

For these reasons and many others, GNYHA strongly opposes forced nurse staffing ratio legislation. We remain committed to the well-being of all New Yorkers, and we stand ready to work with Governor Cuomo, the State Legislature, and the City Council to make sure that all health care workers provide the highest quality patient care possible.

I am happy to answer any questions you may have.

[8] Weichenthal, L., Hendey, G.W., "The Effect of Mandatory Nurse Ratios on Patient Care in an Emergency Department," *Administration of Emergency Medicine* (February 2009).