



THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

Health Joint Legislative Budget Hearing
2024-2025 Executive Budget Proposal
January 23, 2024
Testimony by Wayne Spence

Good afternoon Chairpersons Krueger, Weinstein, and other honorable members of the Legislature. My name is Wayne Spence and I am the president of the 50,000-member strong New York State Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you about Governor Hochul's 2024-25 Executive Budget, as well as some other proposals to help alleviate the burdens on the health care workforce so they can continue to provide quality, affordable care to all New Yorkers. Our union is composed of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State, including 10,000 nurses and other health care professionals who work at the SUNY hospitals, as well as various other agencies, including the Office of Mental Health and the Office of People with Developmental Disabilities, Office of Addiction and Services and Supports, the Department of Corrections and Community Supervision and the Office of Children and Family Services. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members have risked their lives and those of their families to maintain the continuity and quality of services to New York's most vulnerable citizens. Numerous PEF members tragically lost their lives during the pandemic while performing their jobs. PEF members are the frontline workers who care for the state's most acute patients with health, mental illness, developmental disabilities and addiction issues. PEF members take a great deal of pride in their work and the care they provide to clients.

For far too long, the nursing profession has been neglected—low pay, mandatory overtime and hostile work environments have all contributed to individuals leaving the profession and fewer people choosing to enter it. The pandemic provided us with an opportunity to realize how critical the nursing profession is and how underappreciated those who choose this career are.

Last year, New York state spent \$1.35 billion to support 22 million hours of overtime work by state employees. The health care workforce shortage is costing the state hundreds of millions of dollars in excess overtime, in addition to the costs associated with high-priced "traveling nurses" who are hired to close the staffing gaps. These items, in turn, increase attrition and hurt staffing at state facilities.

While the state has begun to take some small steps, much more needs to be done. We thank you for the \$3,000 health care workforce bonus which was included as part of the 2022-23 budget. Unfortunately, many public-facing titles were left out of this program, and we hope this is something that can be rectified. Also in 2022, the Legislature passed a law (Chapter 815 of the laws of 2022) that was amended last year (Chapter 27 of the laws of 2023) to put some teeth in enforcement for the state's existing "no mandatory overtime" law. While this is a good start, stronger penalties must be implemented for those hospitals that continually violate the law.

2024-25 Executive Budget Proposals:

The following Executive Budget proposals build on existing efforts to expand coverage and support the state's health care workforce:

1. End Lag Payroll System for New State Employees (S.8305/A8805 - Part Q)

For more than two decades, the state has implemented a two-week lag payroll system, which was originally instituted for budget savings. Over the course of time, the state has enacted an additional salary withholding program which holds one day's pay for the first five pay periods, meaning that new employees do not receive a full paycheck for almost 14 weeks after beginning their employment with the state. This type of program would never be deemed acceptable in private industry and in fact would violate the state's labor laws. The program has long outlived its usefulness and is yet another reason why the state is not competitive with private employers. End the lag payroll system for new hires so those struggling with housing, student loans and other expenses can make ends meet.

2. Make the "Nurse Practitioner Modernization Act" Permanent (S.8307/A.8807 - Part P)

Nurse Practitioners are autonomous, independent health care practitioners who are licensed to diagnose, treat, and prescribe medications for patients. PEF represents more than 200 Nurse Practitioners throughout New York state working at various OMH, DOCCS, OPWDD state-operated facilities and the SUNY Campus Student Health Services clinics. The Nurse Practitioner Modernization Act took important steps to provide professional autonomy for nurse practitioners that facilitated and streamlined their work. This law is slated to expire on April 1, 2024. PEF believes this law has been helpful in attracting and retaining Nurse Practitioners and expanding access to health care for New Yorkers in racially diverse and rural areas of the state. PEF urges the State Legislature to make this important law permanent (S.6800 by Sen. Rivera/A.6445 by Asm. Paulin).

3. Loan Forgiveness Awareness Program (Briefing Book):

PEF is pleased that the state will expand awareness around this fantastic benefit. However, we need to do even more. While many different types of grants and loan forgiveness programs exist, most of them do not provide relief for many years, usually five or 10 years. PEF believes that loan forgiveness benefits should be provided to nurses and other health care professionals at the beginning of their career, not further down the road. The current law should be expanded to immediately forgive the student loans for those nurses and other health care professionals immediately upon entry into state service. There would be appropriate conditions, such as being required to work for the state for at least four years or having to repay the entire amount. Many private employers already provide this type of benefit.

The following items should be cause for concern.

1. **Closing SUNY Downstate Medical Center and Lack of Resources for SUNY Teaching Hospitals**

We were disheartened to learn that the SUNY Chancellor has developed a “transition” plan for SUNY Downstate that would see the establishment of a new state-operated wing at Kings County Medical Center and the closure of the SUNY Downstate Medical Center. As of the writing of this testimony, neither stakeholders nor staff have seen any written language outlining this proposal, the impact on our members’ jobs or the impact on health care availability to the residents of Brooklyn. While we hope that this plan will preserve the jobs of our members and the quality health care provided by SUNY Downstate, it remains to be seen.

As we work to attract and train the next generation of health care workers and as we explore other options like the interstate nursing compact, it seems very short sighted to undercut one of the premier health care workforce training systems in the nation – the public hospitals operated by the State University of New York. These teaching hospitals provide critical care services to their communities, as well as high quality and affordable training for doctors, nurses and other health care professionals. We should be investing in these institutions, not closing them down.

While we acknowledge that SUNY Downstate continues to face significant financial headwinds due to the nature of the clientele it serves – i.e., indigent, uninsured, underinsured and migrant populations, we do not understand why the state continues to spend billions of taxpayer dollars to support private hospitals as its own public hospitals continues to struggle and starve.

In the end, PEF believes the state should be focused on investing significant operating and capital resources into the SUNY hospitals to expand their educational capacity for underrepresented populations, and to provide clinical experiences linked to serving high-need populations, especially SUNY Downstate.

2. **Entering the Interstate Nursing Compact (S.8307/A.8807 – Part R)**

PEF does not support authorizing New York state to enter into the Interstate Nurse Licensure Compact. While this may bring additional nurses to New York from other states, this may also lead to outmigration of nurses from New York to other states in the Compact. Nurses may decide to leave New York for a variety of reasons and this would make it easier for them to relocate and exacerbate the current shortage.

PEF is also concerned that most of the Compact states have significantly lower licensure requirements than New York. New York should be proud of its high standards and lowering those standards simply to allow out-of-state nurses to practice in New York should give us all pause.

PEF is also very concerned about entering into a Compact given the recent *Dobbs* decision. Many compact states, including Alabama, Arkansas, Idaho, Kentucky, Mississippi, Missouri, Oklahoma, South Dakota, North Dakota, Tennessee, and Texas have taken actions to severely limit a woman’s right to

choose and have also enacted statutes that levy significant penalties against health care professionals that perform abortions, even when the patient's life may be at stake. If we enter the Compact, how does the state regulate the activities of nurses with licenses from these states who support these limits and how does the state protect the nurses from New York practicing in one of these other states when a patient requires a life-saving abortion?

In the end, there are no shortcuts for developing the workforce we need. Even before *Dobbs*, there was simply no evidence indicating that the states that have entered into this Compact have seen patient outcomes or staff-to-patient ratios improve. Please reject this plan.

Additional Policies for Success

To address the state's health care workforce challenges and to support the delivery of quality services in an effective and efficient manner, PEF recommends implementing the following staff attraction and retention programs:

1. Fix Tier 6 Retirement Plan

Thanks to your work and that of Governor Hochul, New York took an important first step in adjusting its defined benefit pension plan for public employees in Tier 6 by re-instituting the 5-year vesting requirement for plan members and by excluding overtime compensation from the calculation of employee contributions to the plan. But more needs to be done. The current Tier 6 plan does a disservice to state and local employers by removing the traditional benefit enhancements structured in typical defined benefit plans that serve to attract and retain talent and to foster long-term staff experience, capacity and excellence. We believe the next important step in adjusting the Tier 6 plan is to standardize the employee contribution at 3% (A. 5487 Pheffer Amato). Currently, higher paid, more experienced workers contribute more to the plan. The current employee contribution structure essentially penalizes workers for working overtime, earning promotions, or securing contractual salary increases. This serves as a disincentive for certain promotional or transfer opportunities. Standardizing the employee contribution would incentivize individuals to become long-term public employees and provide state agencies the trained and experienced civil servants they desperately need. Other recommended Tier 6 changes include:

- a. Reinstating the 3-Year final average salary calculation;
- b. Restoring the 2% calculation at 20 years of service;
- c. Reauthorizing retirement eligibility at age 55 with 30 or more years of public service;
- d. Improving the amount of compensation that can be used to calculate a worker's final pension.

While we understand and appreciate that "Fixing Tier 6" will take time, we need to take that next step now so we can attract and retain the workers the state needs and to rebuild a career public workforce dedicated to delivering quality services to the public.

2. **End “Abusive Conduct” and “Bullying” in State Agencies**

Governor Hochul has certainly set a new, more respectful tone with her state agencies and her employees. However, like all large and diverse operations, there remain certain staff – administrative, professional and supervisory – who conduct themselves unprofessionally in the workplace. To that end, we continue to field complaints from members, especially our nurses and health care professionals, who face bullying or abusive conduct at the workplace. We are not indicating that this is a universal issue, but it is something that requires immediate action. PEF supports legislation (A.1202-B/S.3065) to codify actions in the workplace that constitute “bullying,” and “abusive conduct.” This legislation would require all state employees undergo training to identify such conduct with the hope of preventing it in the workplace and empowering all employees to seek redress from such circumstances. We thank the Assembly for passing this bill unanimously last year. We ask that you work with your colleagues in the Senate to reach an agreement so the bill can become law in 2024. The state can be a model employer for all if we educate all workers on what constitutes inappropriate conduct at the workplace and re-build a culture of mutual respect and support.

3. **Modernize Civil Service Pay Structures**

We applaud Governor Hochul and Civil Service Commissioner Timothy Hogue for their work to increase the pay grades of our state nurses. But, too many other health care and additional state titles are still compensated far below private industry standards. The state needs to modernize the civil service pay structure and develop a job evaluation system that aligns civil service pay grades with the current job market in real time. PEF believes that the salary grade structure needs to be adjusted upward at least two pay grades for every state title, including nurses, to attract and retain the staff the state needs. As part of last year’s budget, the state has agreed to examine all civil service pay grades. We look forward to the results of that study and hope the state can more successfully compete with the higher compensation of other employers in the near future.

4. **Enact a Nurse Preceptor Program**

As part of the American Federation of Teachers’ (AFT) “Code Red” nurse attraction and retention campaign, PEF proposes a preceptorship program to provide mentors for new nurses. This program is similar to the mentoring program New York has for teachers. It has been demonstrated that pairing new nurses with preceptors or mentors provides critical support and reduces attrition. It would be an innovative way to help new nurses develop the skills necessary to be successful and deliver quality health care. The proposal would require nurses to undertake preceptor training and provide a \$500 annual stipend for those who participate as preceptors in the program instituted by the State Education Department.

5. **Preferred Entry for Nurses in SUNY and CUNY for “BSN in 10” Compliance**

PEF has drafted legislation that would give state-employed nurses preferred entry status in state and city-operated colleges to increase skills and meet new licensure requirements. Several years ago, Governor Cuomo proposed this measure in his State of the State address. However, he never took the administrative action needed to implement the proposal. Currently, state-employed nurses who work at the three SUNY hospitals have difficulty gaining entry into programs at their local SUNY/CUNY school. The nurses working at a SUNY hospital should not have this barrier in their way as they seek to improve their skills and/or complete the education required by New York to maintain their credentials.

6. Expand the Nurse Ratio Staffing Committees

In 2021, the Legislature passed a law that required all hospitals and nursing homes to create committees with staff to determine appropriate staff to patient ratios for various levels of care. However, this law only covers hospitals and nursing homes. PEF nurses work in a variety of settings that do not fall under either of these types of facilities. The PEF members at SUNY campuses, correctional facilities, OMH facilities, OPWDD facilities and OASAS facilities are not covered under this law and have no input into staffing decisions. This is a major problem as all of these agencies have relied on mandatory and other overtime to meet staffing needs. Allowing staff to have input into their schedules, especially when it comes to overtime, is easy and critical to addressing the quality-of-life issues that force so many health care workers to leave state service. We propose expanding the law to include nurses at other state agencies be covered by the existing requirements for hospitals.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions that you may have.

Sincerely,
Wayne Spence
President