

Testimony on the Health/Medicaid 2017-2018 Budget

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My name is Jill Furillo and I am the Executive Director of the New York State Nurses Association. NYSNA is the largest union representing registered nurses in New York State, with nearly 40,000 members and, as a union of nurses, we are a forceful advocate for universal, high quality, safe health care coverage for all New Yorkers. We believe health care is a right for all and that nurses and other direct care health workers should be able to provide needed care for our patients and communities, consistent with professional standards and under fair and decent working conditions.

Our health care system is now entering a period of acute crisis and we face multiple threats to the financial viability of the entire system, the restriction of access to cares for wide swathes of our population, and continued efforts to undermine regulation of the publicly funded but largely privately operated health care industry and water down professional scope of practice standards that allow nurses and other care givers to deliver quality care to the people of New York.

New York's health care system as a whole and our hospitals in particular were already facing serious financial stresses under the Affordable Care Act status quo. While millions gained health coverage under the Medicaid expansion and the implementation of the subsidized market places and other reforms, the ACA also slashes federal Disproportionate Share Hospital (DSH) funding and other subsidies for vital safety net services. The ACA DSH cuts alone are going to cost our hospitals more than \$24 billion over the next ten years, and the main brunt of these cuts will be borne by the rural and urban safety net hospitals that disproportionately care for Medicaid and uninsured patients.

Though we have no clear indications regarding how the new administration will implement its promise to "repeal and replace" the ACA, we do know that our hospitals will likely face further funding cuts that will threaten the entire system. Already vulnerable safety net hospitals will increasingly be forced to close or substantially reduce services. This dynamic will not be limited to the safety net hospitals. The shriveling of the safety net system, reductions to Medicare and Medicaid funding and increased numbers of underinsured and uninsured populations will quickly erode the finances of well off hospitals that will be forced to choose between picking up the costs of caring for people who can't pay or leaving them to fend for themselves.

In this context, we believe that the State needs to step into the void and take bold action to protect the health and access to care of New Yorkers.

First and most critically, the State must take immediate action to preserve and expand the rural and urban safety net hospital system.

Last year the legislature unanimously passed the Enhanced Safety Net Hospital bill (A9476 and S6948A), which created a new category of “super” safety net hospitals eligible for enhanced reimbursement rates in order to maintain and expand services to medically underserved rural and urban communities. This legislation was vetoed by the governor on the ground that this was a matter best addressed in the budget process.

The proposed legislation defined eligible safety net hospitals to include all federally designated rural “sole community” and “critical access” hospitals, all public hospitals and those private voluntary hospitals that served the highest numbers of Medicaid and uninsured patients.

The 60 to 70 hospitals that would have qualified for enhanced support are critical to providing care for rural communities in which there are no other providers and uninsured and low income people with no other options for receiving health care services cities and small towns across the state. These hospitals operate on low or negative margins, not because they are inefficient or poorly managed, but because of the assigned role they place in the broader health care system – their losses allow other providers to operate at a profit.

Rural hospitals have been closing or substantially reducing services in increasing numbers across the county. The 11 hospitals of the NYC Health and Hospitals system are facing an almost \$2 billion deficit. Dozens of voluntary safety net across the state are on the verge of closure.

The Executive budget includes a proposal to provide \$500 million in new funding for a “health care facility transformation program” aimed at “strengthening and protecting continued access to health care services in communities.” This proposal would provide funding for capital projects, debt retirement, working capital or other non-capital projects “that facilitate health care transformation activities...intended to create financially sustainable systems of care or preserve or expand essential health care services.” (See: Article VII Legislation, Health and Mental Hygiene, Part K, pages 99- 103).

The budget legislation is intended “to create financially sustainable systems of care or preserve or expand essential health care services.”

The proposal also allocates \$50 million directly to the Montefiore hospital system to allow it to “expand the availability of affordable health care” (Executive Budget Briefing Book, page 69).

NYSNA supports this proposal, but believes the funding must be targeted to the hospitals that meet the definitions of the vetoed “Enhanced Safety Net Hospital” bill and that the funding should be distributed to these hospitals using a formula that tracks the numbers of Medicaid and uninsured patients served by each qualifying hospital.

According to patient care data from Institutional Cost Report filings for 2014, the six hospitals in the Montefiore system provided services to approximately 300,911 Medicaid and uninsured patients. The \$50 million allocation to Montefiore thus amounts to \$166 for each Medicaid and uninsured person seen on an in-patient and out-patient basis.

We call upon legislature to amend the Executive budget proposal target the funding to support vital rural and urban safety net hospitals using the definitions established in the Enhanced Safety Net legislation. This would result in the distribution of the funds to the 15 public hospitals in Erie, Westchester and New York City, 18 federally designated “critical access” rural hospitals, 16 federally designated “sole community” rural hospitals, and approximately 25 voluntary hospitals that have the highest proportions of Medicaid and uninsured patients.

In addition, we call for the amendment of the Executive budget proposal to require distribution of the funds to these hospitals based upon the “Montefiore Formula”- on the basis of total Medicaid and uninsured patients served on an out-patient and in-patient basis.

Second, NYSNA opposes the proposal to create a “Health Care Regulation Modernization Team” that would be charged with creating a “more efficient health care system by modernizing the State’s health regulatory framework.”

This dangerous proposal will undermine quality of care and regulatory standards, giving the health care industry free reign to continue to extract profits at the expense of patients and front line health care workers.

The composition of the team will be heavily stacked in favor of health care industry representatives who will be able to push their interests over the objections of patients, communities and direct care workers.

What little public input that exists in the Certificate of Need process will be further eroded. There will be an increasing reliance on health care industry “self-regulation” and less oversight and regulation of quality and access to health care services.

Oversight by regulatory bodies will be replaced with industry self-regulation and “as needed” inspection processes in which inspectors only appear after patients have been harmed.

State-wide quality standards will be loosened to allow regional and local variations, further pushing us to a two-tiered health care system in which some receive “VIP” care and others receive lower quality services. Disparities based on race, income and geography will get worse.

A particularly alarming element of this proposal would allow the DOH to unilaterally implement “pilot projects” without regard to existing laws or regulations, with no oversight and no legislative or democratic input. This would presumably allow the DOH to implement various pilot programs that were previously proposed but rejected by the legislature, including the opening of the hospital system to for-profit corporate and private equity operation and ownership.

This dangerous proposal must be rejected. Any attempts to “modernize” our regulatory framework should follow normal democratic processes. The private health care providers and the DOH already have too much power to decide on our health care services. We should not give them even more power.

NYSNA also has concerns and opposes the misguided proposals to reduce the reimbursement rate for New York City local health programs from 36% to 29% and to restructure and reduce other funding for local health programs. We believe that local health departments are key front line defenses against threats to the public health and that funding should be increased.

NYSNA opposes the imposition of a \$20 per month premium contribution for participants in the Essential Health Plan program for those with incomes between 138% and 200% of the FPL. We should not increase burdens on low income New Yorkers seeking access to health care.

On a more positive note, we support the inclusion in the budget of \$225 million in funding to assist health care providers in implementing state minimum wage increases, the provision of \$334 million in funding to support “Essential Health Care Providers” through the existing Vital Access Provider (VAP) and Value Based Payment Quality Improvement Program (VBP QIP) programs.

We also support the renewal and extension of most of the provisions of the Health Care Reform Act (HCRA) legislation that was due to expire in 2017. We are concerned, however, that the proposal does not address the methodologies by which these funds are allocated and would support revisions of the indigent care pool and other methodologies to more closely and fairly track services to Medicaid and uninsured patients. NYSNA is also concerned that the legislation would give the DOH the authority to make changes in the allocation of HCRA monies without setting specific standards or parameters to ensure a fair allocation to health care providers that most need the funding.

NYSNA supports the proposal to impose price controls on the pharmaceutical industry through the establishment of benchmark drug prices and the imposition of a 100% surcharge on sellers who exceed the benchmark prices. NYSNA is supportive of any efforts to rein in pharmaceutical industry abuses and price gouging.

Finally, we support the proposals to require water testing to protect the public, but believe the proposal does not go far enough. Testing should be more frequent than every three years and there should be increased assistance to local governments to engage in this vital work.

I thank you again for the opportunity to testify today and look forward to working with you to address the concerns and priorities of New York’s front line nurses.