



Testimony, Health/Medicaid Joint Legislative Public Hearing
On the 2017-18 Executive Budget Proposal

By:
Nora Margaret Higgins, NYS Public Employees Federation

February 16, 2017

My name is Nora Margaret Higgins, I want to thank you for taking the time out of the day to hear the concerns of healthcare workers throughout the very blessed state of New York. I say, and mean blessed, because those of us in healthcare have had the privilege of touching, and in some cases, saving thousands of lives. I myself have worked as a nurse for 30 years, 27 of those at SUNY Stony Brook Medicine.

Through the years the song for the state worker has remained the same. "Do more with less". Watching people leave and never get replaced, salaries stagnating, more limitations to the newly hired employee, and the downright despair and frustration one feels when wanting to provide the best care for your patients, while limited by time, inadequate resources and insufficient quality staff.

The shortage of nurses and other healthcare professionals in NYS is not discriminatory, it is everywhere. Most crucially in the hospital, and NYS facilities. To a great deal this is caused by the two opposing ends of the spectrum, the first the new nurses that are not willing to come or stay in NYS, and the other is caused by the multitude of nurses leaving the state due to retirement or for fear of losing their nursing license. (enter the Justice Center).

The exodus of registered nurses working for NYS is directly attributed to difficult working conditions including:

1. Inadequate staffing
2. Mandatory Overtime (even through there is a No Mandatory Law- state agencies continue to violate it with no penalty)
3. Insufficient compensation in comparison to the private sector that pays on average \$10,000 - \$15,000 more in annual salary.

PEF nurses are already wrestling with chronic understaffing and its ramifications in facilities throughout New York. Due to the fact that the salaries of nurses employed by NYS are not competitive with the private sector and poor working conditions found in many of the state institutions, NYS is dealing with a massive nursing shortage. Examples of the poor working conditions faced by many of the PEF nurses include:

- Increased incidents of assaults on nurses working in State Psychiatric Hospitals and Developmental Centers (assault).
- Frequently being required by their agency to cover 2 floors of 22 -24 patients or even be responsible for patients physically located in another building(s).(License jeopardy)
- Not be able to take a meal break (fatigue=mistakes)

- Being mandated to work double shifts or in some cases being pre-mandated to work on their days off or their off shifts even though there is a No Mandatory Overtime Law. The NYS Department of Labor does nothing to enforce the law in the state facilities and there is no fiscal penalty.
- The NYS Department of Corrections and Community Service is charged with the care and custody of people who violate the law in NYS, yet they are the lead violator of the No Mandatory Overtime Law. Since 2009 there have been 4,018 incidents of mandatory overtime involving DOCCS nurses have been reported. (DOCCS Monthly Health Services Report Nov 2016)
- Justice Center has not resulted in improved quality of care for vulnerable citizens, but has had a adverse impact by draining resources, limiting staffing options, and creating a negative atmosphere. Think of how the seasoned resident feels, now being cared for by entirely different faces when several people are pulled from an area during an investigation. Not to mention how the nurses are often put out for insignificant accusations that take months to investigate, all while that nurse's caseload is then dispersed among their already overloaded co-workers. In many instances the nurse was put out because of a lapse in best

practice due to an already unrealistic caseload and responsibilities, to then create more stress and anxiety for their fellow nurses when they have to absorb those patients.

The nursing staff shortages generally force nurses on duty to work longer shifts and get less sleep which can lead to life threatening mistakes. Studies site that many nurses have left the profession as a result of emotional exhaustion due to inadequate staffing ratios and excessive hours. Many of these same studies indicate that nurses could be persuaded to stay in the profession if regulations were implemented that address staffing ratios. In the case of NYS institutions, those employee seek stiffer penalties to the Mandatory Overtime Law.

The New York State Department of Civil Service has recently attempted to address the nursing shortage by awarding Geographic Salary Differentials to nurses working in the North Country as well as 13 counties in Western NY to make them more competitive with the private sector due to their inability to recruit and retain nurses. Even with these recent geographic salary differential awards along with the older downstate geo of \$12,871 (awarded in 2000) the state is far below the private sector in compensation.

The new, NYS public employee is faced with:

- a) 6 week lag payroll
- b) Tier 6 retirement package
- c) significant risks to their nursing license.

What new nurse would want to choose the State of New York as their employer?

Currently nurses working for New York State in a Nurse 1 (Grade 14) or Nurse 2 (Grade 16) have not had their Classification Standards amended since 1981. When the Class Standards were first drafted, the state was flush with nurses and institutions were then abundant. Fast forward to 2017. The emphasis is on pushing services out to the community and doing more with less, increased documentation and changes in medical technology and multiple threats against their license. Yet the grade level of the nurses and their job description has not changed. Nurses save lives on a daily bases, they keep patients alive, offer comfort to the families, and provide care to the neediest citizens, but they are still at the bottom of the Civil Service titles.

How have we allowed these situations to persist:

- a) inadequate compensation for nurses

b) Noncompetitive salaries due to lack of a comprehensive review of the Nursing Class Standards and salary grade levels

c) dramatically low staffing levels/ratios

As long as the nurses are overloaded and unable to provide quality patient care, they will continue to face increasing levels of frustration, stress, and on the job injuries.

Again I ask you what new nurse WILL choose the State of NY as their employer?

The key to encouraging more nurses to remain in state service, or return to working in the state system, is to improve working conditions and compensation.

Respectfully I ask that the New York State Legislature to:

a) PASS Safe Staffing legislation (A.1532 Gunther/S.3330 Hannon), which will include state institutions and hospitals.

Leaving this as an option, and not a mandate is truly not working out very well for the patients, or the nurses.

b) INCLUDE a fiscal penalty to the "No mandatory Overtime Law" that also includes state agencies.

c) SUPPORT increased compensation for state nurses working in direct care titles, in order to recruit and retain more nurses into state service.

d) Revision of the Justice Center's approach of "ready, fire, aim"

In closing, again I thank you for your time and consideration... the life you save, could be your own.



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**By:
Kenneth Ferro, NYS Public Employees Federation**

February 16, 2017

Thank You for giving PEF the opportunity to present here. My name is Kenneth Ferro; I have been the PEF Labor Management Chair or Co-Chair since 2005. I have worked at the Department of Health in Nursing Home Reimbursement since April 2001. I currently work for OHIP as an Associate Health Care Fiscal Analyst.

PEF realizes that the Medicaid Delivery Systems are changing but what is baffling to us is that PEF and CSEA do not have a seat at the Medicaid Redesign Team (MRT) table during this huge transformation process. We see the public workforce as a major stakeholder with no voice in this huge transformation. Being public employees, we work for the taxpayers of New York State so we are accountable to them. We deliver and protect the health and safety needs of the residents of New York State in a productive and cost effective way.

Mission, Vision, Values - New York State Department of Health

- **Mission:** We protect, improve and promote the health, productivity and wellbeing of all New Yorkers.
- **Vision:** New Yorkers will be the healthiest people in the world - living in communities that promote health, protected from health threats, and having access to quality, evidence-based, cost-effective health services.
- **Values:** Dedication to the public good, Innovation, Excellence, Integrity, Teamwork, Efficiency

The workforce in some Health and Medicaid areas has been decreased substantially through attrition, and a hard hiring freeze causing staffing shortages in many Bureaus. However, areas that were affected by the Affordable Care Act and the Medicaid Takeover program have grown. This does not help to address the issues caused by the shortages. In the short term, these short staffing levels could possibly save the State money but in the long term, it sets the us up for failure both financially and for patient care as well. We strongly advocate that the State give the Agency the resources to increase staffing levels to do the job properly and to protect the taxpayers of New York State.

When we look at the Health and Medicaid Budget there seems to be a common theme.

1. Streamline processes
2. Elimination of functions
3. Contract Out
4. Closures of facilities
5. Consolidations of facilities as well.

6. Audit and/or inspections

We again see that streamlining the Certificate of Need (CON) process is back. Although the efforts to streamline will help spend grant money on time, won't the lack of reviews and inspections have a negative effect? We understand the reasoning, that the process became bogged down with the decrease in staff and application not being completed in a timely-manner.

- DOH started streamlining health and safety reviews and inspections with the self-certification process around 2005, to allow a licensed professional certification as an alternative to project review by the Department.
 - This is regulatory exception that department has used for over a decade
 - It is now the primary approval method used to oversee health and safety of all NYS hospital patients and nursing home residents
 - Self-certification projects were supposed to be audited, to date we don't believe any projects have been audited
- In 2011 Bill No. A.7665-B/S.4992-A-Chapter 174- notification process
 - Unlimited cost
 - Eliminates review of non-clinical projects
 - No Health and Safety Review or CON approval
 - The decision to provide a profession certification of code compliance is left up to the provider
 - Requires E-Mail to DOH advising that the project is in process
- List of non-clinical projects with no health and safety review from the Department
 - Ventilation systems for operating rooms
 - Ventilation systems for infection and disease control
 - ICU's
 - Nurse call and code blue systems
 - Sprinkler systems
 - Emergency electrical power distribution systems/ emergency generators

I know we all remember Hurricane Sandy and the devastation it caused and the affect it had on the many health care facilities. A number of providers, had emergency generators that did not work. One being NYU Hospital. Do we know, if these generators were installed above the flood plain before the storm? DOH was part of the taskforce after Sandy. Did the regulations need any changes regarding the flood plain and has an inventory of all critical care facilities and nursing home generators been done? We realize that this was an extraordinary storm and hopefully once in a lifetime for New York State, and the failure of the generators could have occurred any way.

We had fires at Hospitals:

- Montefiore Emergency Department
- Mt Sinai
 - Relocated 450 patients
 - Was the hospital code compliant?
 - Has the cause of the problem been identified and shared with inspectors and review staff?
 - What life safety department at DOH monitors and/or works to prevent these issues in the future?
 - Did DOH do any inspections of these facilities in the years leading up to these events?
 - Does DOH system of fires correspond with FDNY reports or other municipalities?
- Facility where ventilator patient died
 - Emergency generator failed
 - Eastchester Nursing Home
 - Brendan Lyons has done a story on this

We have given you a limited amount of information for the purpose of this testimony but PEF believes we present a case that the State should increase staffing levels across the board as this is occurring throughout DOH and OMIG. We have to stop putting political pressure on the Department to fast track any and all projects as this obviously is causing issues after the fact. Thus, the small savings from low staffing levels and lack of a thorough investigation has cost the State millions of dollars and possibly some lives. We owe it to the people of the State of New York to not be penny wise and pound foolish.

Civil Service Restructuring

During the past year the Department of Health and the Office of Medicaid Inspector General Office have gone through three restructurings:

1. Public health rep
 - a. Which the Agency was against the final product delivered by Department of Civil Service
2. Medicaid Investigator Series
3. Engineering Series

In each of these series, there is emphasis to eliminate career mobility. The employee will reach a grade 23 or 24 level and have limited room to advance. In some cases, the agencies bring in political appointees that don't know or understand the program areas. Training occurs from bottom up in many instances. This causes morale issues throughout all agencies. PEF strongly advocates that the workforce be given the opportunity to have a career ladder and room for advancement.

Also there is budget language that we oppose (S.2000/A.3000, p. 389):

- staff who are contracted by the department of health to assist with health insurance program initiatives and who meet the open competitive qualifications for positions established to perform these functions will be eligible for appointment to appropriate positions, designated by the office of health insurance programs within the department of health, that are classified to perform such functions without further examination or qualification, and, upon such appointment and satisfactory completion of a probationary period, will have all the rights and privileges of the jurisdictional classification to which such positions are allocated in the classified service of the state; and (b) student assistants who are working in the department of health's office of health insurance programs through the department of civil service student assistant classification and who meet the open competitive qualifications for traineeship classifications in titles approved by the department of civil service will be eligible for appointment to appropriate traineeship positions designated by such office, without further examination or qualification, and, upon such appointment and satisfactory completion of a probationary period, will have all the rights and privileges of the jurisdictional classification to which such traineeship positions are allocated in the classified service of the state.

We would want more information as to what they are asking for this seems to open ended and we must oppose it.

Wadsworth Laboratory Upgrade

S.2005/A.3005 Part W

PEF DOH Division 205 supports the concept of a replacement for the Wadsworth Labs, which date back to the building of the Empire State Plaza (ESP). However, more definite information is needed. This was originally proposed as a \$663 Million project. Later, the project was to be built at SUNY Polytechnic Institute and had a price tag of between \$491 and \$497 Million, and would have a 350,000 square foot public health lab and a 50,000 square foot biotech complex. The rest of the complex was set aside for a new institute involving SUNY Poly's Nano-Bioscience Department. The entire building, which would have encompassed 600,000 square feet, was designed to have private companies pay for a portion of the project. In this version, the design only required the State to budget \$350 Million for the building since the rest of the cost would have been funded by private sector companies participating in a biotech innovation center. However, the DOH agreement with SUNY Poly to build the facility expired last year. The inclusion of only \$150 Million for the project leaves questions as to what exactly is planned.

Office of the Medicaid Inspector General

PEF has a real concern here and we believe the public should be concerned as well. We have issues in the Delivery of Medicaid and Fraud. The threat that OMIG will audit them. This will keep the providers in line. It is that just a threat. Are audits occurring? If so how frequent?

PEF has an issue with a Medicaid Investigator Title Series. This is a non-competitive title; we believe the series should be made competitive to give them the ability to do their job, without outside influences that can occur. A non-competitive title does not have the same civil service protection that a competitive one does.

Agencies that work within the Medicaid Program, promote the idea that providers will be audited by OMIG, the Executive Budget has a decrease in FTE's from 453 to 426, or 6%. We believe that this should be expanded for the workforce to protect the interest of the people of New York State.

CONCLUSION

In conclusion, thank you for giving PEF the opportunity to testify. We look forward to working together with you to make improvements at DOH. We want to leave you with a few things in summary:

We want to reemphasize that the public workforce is:

1. Accountable to the public
2. Transparent
 - a. Try FOILING a contractor or even HRI
3. We are well educated and have to meet minimum standards.

Please give all State agencies the funding to increase the workforce not decrease. When we decrease the budgets you force the agencies to contract out:

1. We have to train them—in a lot of instances we continue to do the work
2. Not cost effective
3. Contractors are held accountable to their company, not the public.

When making a major purchase such as an automobile, my wife and I discuss whether we can afford it. In the legislature over the last few years there have been bills introduced for a cost/benefit analysis (S.383 Robach/A.2022 Bronson). We would encourage you to pass this legislation as we owe it to the taxpayers of NYS. It is their money and we need to spend it wisely.

Again, thank you for the opportunity to testify.