



# THE COALITION FOR SAFE & AFFORDABLE CARE

May 30, 2018

Dear New York State Legislator:

The members of the Coalition for Safe and Affordable Care would like to express our strong opposition to legislation imposing forced nurse staffing ratios on all hospitals and nursing homes<sup>1</sup> in New York State. We urge you to not only refrain from co-sponsoring the bills (A.1532/S.3330), but to join us in opposing them.

Members of our Coalition have the deepest respect and admiration for nurses. They are essential members of the health care teams providers rely on to provide high-quality, comprehensive care for all New Yorkers. By working with nurses and interdisciplinary teams—including, for example, physicians, pharmacists, physical therapists, dieticians, social workers, nursing assistants, lab technicians, transporters, and many others—hospitals and nursing homes are improving quality of care and patient outcomes. New York's providers are also working with all members of these teams to reduce hospitalizations, one of the key goals of State and Federal health care reforms, and the State's Medicaid waiver.

Legislatively mandating specific numbers of one member of the team would undermine real-time patient care decisions, deny hospitals and nursing homes the workforce flexibility they need to improve care, and adversely impact other members of the health care team. In California, the only state to mandate hospital-wide nurse staffing ratios, there has been significant tension between unions representing nurses and those representing other types of health care workers because of the impact of the ratios. Workers who are not nurses have feared the loss of jobs.<sup>2</sup> The last thing we need amid the constant hostility from Washington, DC, toward New York's health care system is tension among the caregivers who we need to work together for the good of their patients to improve quality and to reduce costs.

National experts oppose mandatory, forced ratios. The American Nurses Association opposes them, instead supporting flexible staffing plans that are tailored to the needs of specific types of units and patient populations.<sup>3</sup> The American Organization of Nurse Executives also opposes them, stating that “[n]urses functioning as managers must have the flexibility to determine the appropriate level of nurse staffing for patient care needs while considering a constellation of important variables.”<sup>4</sup> The nurse who was appointed to chair former President Obama's National Health Care Workforce Commission is adamantly opposed to ratios because “no two patients are alike, just like no two nursing units are alike...So applying standards to nurse staffing doesn't make sense...It is a bankrupt idea.”<sup>5</sup>

Experts also oppose mandatory ratios because there is no reliable evidence that they improve care. According to a 2013 study, “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 have achieved that

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goal.” The study authors also reported that nurse staffing ratios “have not been consistently linked to improvement in the quality of care,” and concluded that “policy makers should tread cautiously as they consider new nurse staffing regulations and carefully weigh the potential of quality and work environment improvement against the possible costs of regulation.”<sup>6</sup> We could not agree more, especially since the cost of compliance in New York State would be as much as \$3 billion annually.

One of the reasons it has been impossible to measure any discernible quality improvement in California specifically tied to the mandatory nurse ratios is that California hospitals have had so much difficulty complying with them. Nurses unions in California have reported that hospital noncompliance is “prevalent and ongoing.”<sup>7</sup> It has been reported that 40% of hospitals have been cited for noncompliance (and because enforcement, historically, has been entirely complaint driven, actual noncompliance rates may be much higher). It has also been reported that 89% of hospitals have been out of compliance.<sup>8</sup> The proposed ratios in New York State are even stricter than California’s law. They would be much more difficult for hospitals to comply with, would make nurses even harder to come by, and would also apply to all nursing homes in the state (the California ratios only apply to hospitals).

Forced nurse staffing ratios are unnecessary. The Federal Medicare program requires surveyors to regularly determine if there are adequate numbers of nurses and other personnel to provide nursing care to all patients as needed, taking into consideration facility-specific and unit-specific characteristics, including physical layout and size, the number of patients, intensity of illness of the patients, the availability of other personnel and resources for nurses, and the training and experience of nursing personnel.<sup>9</sup> And in 2016, the Medicare program greatly enhanced the workforce component of its nursing home star rating system<sup>10</sup>, holding nursing homes accountable for staffing as never before.

Additionally, New York State has already enacted the Nursing Care Quality Protection Act, which requires hospitals and nursing homes to disclose nurse staffing plans and nursing quality indicator data (including nurse staffing indicators such as total number of hours of care provided by patient care staff, per patient day, per unit, along with nursing-sensitive outcome indicators, such as falls, pressure ulcer rates, and infections) to anyone upon request.<sup>11</sup> This allows consumers and nurses to learn all about the nursing care on any hospital unit or nursing home in New York State at any time.

For all of these reasons—the negative impact on care teams and other workers; the negative impact on health care reform; the lack of evidence of quality improvement in California; the extreme difficulty California hospitals have had meeting the ratio requirements; and the fact that Federal regulators already require safe staffing in hospitals and nursing homes—we agree with national experts that mandatory, forced staffing ratio legislation is a very bad idea for all New Yorkers. We urge you to oppose A.1532/S.3330 and any similar legislation.

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1. For nursing homes, the legislation also sets specific ratios for licensed practical nurses and certified nurse aides, in addition to registered nurses.
2. Eidelson, Josh, “Are Nurses Headed to War with SEIU?”, *In These Times*, June 19, 2012.
3. American Nurses Association, “Principles for Nurse Staffing,” Second Edition, 2012.
4. Policy Statement on Mandated Staffing Ratios, American Organization of Nurse Executives, December 2003. <http://www.aone.org/resources/mandated-staffing-ratios.pdf>
5. A Provocative Conversation with Peter I Buerhaus, PHD, RN, FAAN,” *Nursing Economics*, July-August 2011.
6. Spetz, Joanne, et al., “Using Minimum Nurse Staffing Regulations to Measure the Relationship Between Nursing and Hospital Care,” *Medical Care Research and Review*, February 11, 2013.
7. Staff Analysis of California Senate Bill 554, April 27, 2011.
8. Spetz, “California’s Nurse to Patient Ratios,” *Journal of Nurse Administration*, December 2004, p. 574; California Hospital Association.

9. U.S. Department of Health and Human Services, CMS Manual System, Pub. 100-07 State Operations and Provider Certification, Transmittal 37, October 17, 2008, pp. 167-168.
10. Kaiser Health News, "Nursing Home Rating System Gets Makeover," October 7, 2014.
11. New York State Public Health Law §2803 and §2803-t.