



**Suburban  
Hospital Alliance**  
of New York State, LLC

# OPPOSITION MEMO

**Date: April 19, 2023**  
**From: Wendy Darwell, President and CEO**  
**A.5079 – referred to Assembly Health**

The Suburban Hospital Alliance of New York State, which represents hospitals and health systems in the Hudson Valley and on Long Island, opposes A. 5079, which would mandate rigid nurse staffing ratios for critical and intensive care patients at all times. This legislation would override key elements of clinical staffing legislation (Ch. 155 of the Laws of 2021) before that law has even been fully implemented.

In 2021, the Legislature, providers and labor unions representing registered nurses and other clinicians reached consensus on legislation that required hospitals to establish clinical staffing committees with equal representation from management and labor. The staffing committees were tasked with developing reasonable staffing plans that reflect factors including the composition and experience of staff, patient needs and acuity levels, and the physical layout of hospital units. In accordance with the statute, hospitals developed and submitted their staffing plans in July 2022 and began implementing their plans on January 1, 2023.

The legislation also called for the Commissioner of Health to promulgate regulations establishing staffing standards for critical care (CCU) and intensive care (ICU) units. The proposed regulations are currently in the public comment phase and will be finalized soon. Like A.5079, the regulations call for a minimum of one professional nurse for every two patients requiring intensive or critical care. The regulations go on to clarify that the minimum staffing ratio is tied to the patient, not the patient's physical location in the hospital. This reasonably reflects that patients needing high-level care may be physically located in another unit if a bed is unavailable in the CCU or ICU; it also reflects that patients no longer needing high-level care may remain in the CCU or ICU due to lack of capacity in another unit. This flexibility is critically important.

A.5079 goes beyond the 2021 statute and the proposed regulations to establish an unreasonable standard of 1:2 staffing "at all times," including all breaks and lunch periods. Hospitals would be forced to hire a pool of nurses just to cover these short breaks, adding significantly to the ongoing staffing shortage and financial stresses of these institutions. The "at all times" standard was intentionally removed from the 2021 statute, allowing individual institutions and frontline workers to address coverage needs locally in the context of their own staffing plans.

The Suburban Hospital Alliance, along with other hospital associations and the nurses' unions, ultimately supported the 2021 clinical staffing legislation. After months of intense negotiations, the final product put patients first while fairly balancing staffing needs with operational and financial realities. The compromise ensured that each institution and its frontline workers would be empowered to develop a plan specific to their patients, workforce and other local characteristics, rather than having statewide rigid mandates imposed upon them. The statute included multiple enforcement mechanisms, opportunity for ongoing staff

input and a process for addressing grievances. It also ensured that the success of this effort would be assessed by a commissioner of stakeholders, which will report back to the Legislature next year.

Revisiting the terms of the statute before it has had a chance to work would not only be premature, it would be a breach of faith with stakeholders who worked hard to achieve consensus on the 2021 law and the clinical staffing committees who dedicated many hours to developing their hospital-specific plans.

For these reasons, the Suburban Hospital Alliance urges you to reject A.5079.