Suburban Hospital Alliance of New York State, LLC

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Dr. James V. MacDonald, M.D., M.P.H.
Acting Commissioner of Health
New York State Department of Health
Submitted via regsqna@health.ny.gov

Re: I.D. No. HLT-09-23-00020-P, Clinical Staffing in General Hospitals

On behalf of the Suburban Hospital Alliance of New York State, which represents hospitals and health systems on Long Island and in the Hudson Valley, I thank you for the opportunity to comment on the proposed regulations to implement the clinical staffing law for general hospitals. I specifically want to address the proposed staffing standard for intensive care (ICUs) and critical care units (CCUs).

The Suburban Hospital Alliance supported the passage of the legislation that gave rise to these proposed regulations because it represented a reasonable compromise on appropriate hospital staffing. We supported the establishment of clinical staffing committees on which hospital leaders and frontline workers have collaborated to develop appropriate staffing models. We are actively supporting our member institutions in their implementation efforts. In fact, many hospitals in the suburban regions had implemented shared governance models with their workforce prior to the passage of legislation.

Essential to our support for the legislation was that it ensured that these collaborative staffing decisions would be made locally, based on each individual hospital's circumstances – not forced to fit into a rigid statewide template. It gave clinical leaders the flexibility to adjust for the constantly changing conditions based on patient volume and acuity, experience levels of staff and other critical factors. We appreciate that the regulations previously implemented have largely upheld the spirit of the legislation.

As we have commented previously, we continue to oppose and urge you to reconsider the proposal to enforce an explicit standard of 12 hours of registered nurse (RN) care per patient day – a 1:2 ratio – for intensive care and critical care units. The statute requires that the Department of Health promulgate regulations on staffing for these units, taking into consideration not only a minimum standard, but also the standards in place in neighboring states and 16 other relevant criteria. The proposed regulations do not offer any evidence of consideration of these other factors, opting instead for the kind of rigid ratios that the statute itself explicitly rejects. Appropriate ratios should be addressed in the context of each institution's staffing committee and, failing that, under the multiple enforcement mechanisms built into the law.

Most hospitals are already staffing their ICUs and CCUs at or better than 1:2 ratios. However, as reinforced throughout the statute, no two hospitals have the same patient mix, cadre of staff, or physical layout, among other factors; in circumstances where it is deemed clinically appropriate in the judgment of medical leadership to have a different ratio in the ICU or CCU, clinicians should have the flexibility to make those decisions for their own institutions. We urge you to modify the regulations to recommend, but not require, 12 hours of RN care per patient day in these units.

That said, we do appreciate the recognition in this proposal that staffing should be tied to the level of care required by the patient, not the patient's physical location within 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; conversely, it acknowledges that a 1:2 staffing ratio is not necessary in situations where a patient is still physically located in a CCU or ICU but no longer needs that level of care. This flexibility is particularly important given the impact on hospitals of persistent delays in discharging patients to post-acute care settings – delays caused largely by the inability of skilled nursing facilities to meet the staffing ratios that have already been implemented.

We also urge you to utilize your discretion to delay implementation of the ICU and CCU staffing ratios by at least six months. The implementation of any staffing standards at this time will be extremely difficult to achieve given an acute and well-documented workforce shortage impacting healthcare providers of all types, including hospitals.

Thank you again for the opportunity to comment. If you have any questions, please contact me at wdarwell@sha-nys.org or (631) 435-3000.

Sincerely,

Wendy D. Darwell
President and Chief Executive Officer