



***Testimony***  
to the  
**Senate Finance Committee**  
and  
**Assembly Ways and Means Committee**  
on the  
**Proposed 2018-19 Executive Budget**  
for  
**Health and Medicaid**

**February 12, 2018**

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*Representing more than 600,000 professionals in education and health care*  
*Affiliated with the AFT – NEA – AFL-CIO*

*Testimony of  
Andrew Pallotta  
President  
New York State United Teachers  
to the  
Senate Finance Committee  
Catharine Young, Chair  
and  
Assembly Ways and Means Committee  
Helene E. Weinstein, Chair  
on the  
Proposed 2018-19 Executive Budget  
for  
Health and Medicaid  
February 12, 2018*

Chairperson Young, Chairperson Weinstein, honorable members of the Legislature and distinguished staff, I am Andrew Pallotta, President of New York State United Teachers (NYSUT). NYSUT represents more than 600,000 education and health care workers statewide and over 200,000 under our national organization, the American Federation of Teachers (AFT). NYSUT's Health Care Professionals Council (HCPC) consists of representatives of NYSUT's 16,000 professional registered nurses and other health care professionals working in public and private health care settings statewide. Our members work in hospitals, clinics and through home health care agencies. Additionally, our members include physicians, visiting nurses, therapists, lab personnel, school psychologists and registered professional school-based nurses throughout New York State. In addition, NYSUT represents over 160,000 retirees, many of whom use the state's health care system. On behalf of the HCPC and NYSUT, thank you for the opportunity to submit testimony today on the 2018-19 Executive Budget proposal.

I would like to begin by thanking you for the numerous legislative initiatives you have passed over the last several years which have aided both the public at large and our health care professionals in their workplaces. Many of these programmatic reforms clearly illustrate the empathy and appreciation this body has towards the individuals who have dedicated their lives to the health care profession. Your actions enable these health care professionals to continue to provide our state's citizens with high-quality health care services.

By end of 2017, the following bills became law in New York State: Chapter 502, which established a temporary commission to examine the potential barriers to entering nursing (*i.e.*, economic, cultural and compliance, etc.), examined the availability, access and financial barriers to obtaining a baccalaureate degree in nursing (BSN) within ten years and will make recommendations on alternative equivalent programs in which nurses may obtain training and experience equivalent to a BSN; Chapter 463, which requires the commissioners of health and mental health to compile a list of providers who treat or provide support for maternal depression;

Chapter 465, which grants excused leave to public officers, employees of the state, a county, a municipality or a school district to undertake screening for cancer; Chapter 430, which authorizes nurse practitioners to execute orders not to resuscitate and orders relating to life sustaining treatments; Chapter 436, which establishes the adolescent suicide prevention advisory council; Chapter 414, which requires certain health insurance policies to include mammography screening by breast tomosynthesis; Chapter 347, which establishes a sepsis awareness, prevention and education program within the Department of Health to educate students, parents and school personnel about sepsis awareness; Chapter 183, which authorizes schools to screen for childhood obesity as part of their health services; and Chapter 12, which ensures that participants of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) have access to all WIC approved products, including specialty formula.

### **Medicaid**

The 2018-19 Executive Budget Medicaid (state share) Spending Cap continues a year-to-year cap growth of no more than a ten-year rolling average of CPI (estimated at 3.2%) and continues to allow the commissioner of the department of health to adjust the amount if spending exceeds the cap. Proposed increases in Medicaid spending under the 2018-19 Global Cap will total \$18.9 billion, an increase of \$593 million over 2017-18 spending.

While we realize that the New York State Medicaid program is complex and costly, NYSUT urges the Legislature to expand the Medicaid Global Cap and increase the cost-of-living rates to hospitals and nursing homes.

NYSUT is concerned that the effect of a perpetual cap on spending for our health care facilities will negatively impact the delivery of health care services and programs by health care providers to our neediest citizens.

While we appreciate the proposed increase of \$593 million over the 2017-18 spending cap, we believe that the enactment of a spending plan which does not take into consideration the unpredictable medical needs of the state's population, will significantly compromise the delivery of health care services to all New Yorkers. As I am sure you are aware, hospitals, nursing homes and home care agencies serve a range of people from the chronically ill to those in need of emergency care. Since 2017, we have witnessed a number of unforeseen crises (fatal increase in Opioid use), epidemics (declaration of a disaster emergency for the flu) and natural disasters (unresolved hurricane devastation in Puerto Rico and the U.S. Virgin Islands) that have affected Americans without warning and for which decisive responses by highly qualified health care professionals was instrumental.

Hospitals have the responsibility of responding to medical emergencies, while also ensuring the delivery of quality health services to the patients already under their care. Hospitals also serve as safe havens for shelter and food. Clearly, our health care facilities need to be preserved and fiscal caps and reductions do not help facilitate such preservation.

In addition, Medicaid enrollment continues to grow, however, the Executive Budget proposes to completely eliminate cost-of-living rates for hospitals and nursing homes. Unfortunately, this

action requires such health care facilities to absorb all inflationary increases without any cost-of-living adjustments. This approach ignores the increased costs and the mix of services that providers offer, and fails to distinguish between high and low occupancy facilities. The last year these facilities were provided with a full trend factor adjustment was 2005.

A large portion of the Executive Budget's proposed cuts to the Medicaid program carry with them a corresponding loss of matching federal funds. Given the current uncertainty and partisan infighting within Congress, NYSUT is concerned that Medicaid funding will be a major casualty in the forthcoming negotiations to rein in the federal deficit, or in passing a federal budget.

If enacted in its current form, the Executive Budget proposal would result in decreased revenue to hospitals, home care providers and nursing homes. The consequence of a continual cap on health care programs will affect health care professionals working in medical facilities through layoffs, the elimination of high-quality services and additional facility closings. Accordingly, cutbacks of this magnitude to the health care community are unacceptable to NYSUT and to those individuals who would be adversely affected by such alterations to these vital health care services. We urge you to develop alternatives to the proposals contained in the Executive Budget, namely:

- reassessment of the Medicaid Global Cap; and
- provide cost of living increases for health care facilities that have been denied such funding since 2005.

### **Income-Related Monthly Adjustment Amount (IRMAA) – Medicare Part B**

The 2018-19 Executive Budget significantly alters the reimbursement of Medicare Part B premiums for retirees covered by the New York State Health Insurance Program (NYSHIP). Specifically, this provision would amend the civil service law by freezing the reimbursement of Medicare Part B premiums at \$134.00 for all NYSHIP retirees with Medicare primary insurance, regardless of their income. Additionally, it eliminates the reimbursement of the Income Related Monthly Adjustment Amount (IRMAA) for certain retirees. IRMAA has been reimbursed for the last eight years, while other retirees pay a standard premium, which is also reimbursed. This means that as the cost of Part B increases each year, retirees will have additional out-of-pocket health care costs which, NYSUT believes, constitutes a diminishment of their established health care benefits.

This change not only affects state retirees for whom Medicare is their primary insurance, but also retirees from school districts and local governments who participate in the NYSHIP Empire Plan.

These proposals were submitted as part of the Executive Budget in previous years but were ultimately rejected by the Legislature. Accordingly, we once again call upon the Legislature to reject these provisions in the 2018-19 Enacted Budget.

## **SUNY Hospitals**

I want to thank the Legislature for restoring some of the funding that was cut in last year's Executive Budget. Unfortunately, the 2018-19 Executive Budget proposes the elimination of the state subsidy and replaces it with a state capital appropriation. The elimination of the subsidy is deeply troubling.

While our hospitals are in need of capital for critical maintenance and improvements, the state subsidy is a vital lifeline to keeping these teaching hospitals open. SUNY hospitals are academic medical centers that provide much needed patient care, train and prepare the next generation of health care workers, engage in research to improve lives, create technologies to revolutionize health care and provide invaluable community services.

The Executive Budget proposal fails to recognize and uphold the state's responsibility for these teaching hospitals and the unique services they provide. Unlike any other state governmental entity, these hospitals are required to pay their own salaries, fringe benefits and debt service on capital projects. These hospitals are New York's true safety net providers, serving low-income communities, the uninsured and the underinsured. These communities rely on these hospitals for health care.

As New York braces for draconian changes and cuts to federal health care reimbursement, SUNY's hospitals must be supported and positioned to continue to provide care to all, regardless of a patient's ability to pay, as well as train the next generation of health care workers. To that end, we urge the Legislature to restore the subsidy.

In addition to the state subsidy, NYSUT is concerned that the New York State Department of Health has capped the amount of reimbursement they will receive under the Disproportionate Share Hospital (DSH) Program. Since this program provides fifty percent matching federal funds, limiting the state match to these hospitals hinders their ability to fully access federal funding, which further hinders their ability to fulfil their safety net mission.

I thank Senator Hannon and Assemblymember Gottfried for introducing legislation in 2017, (S.2546/A.3126) to ensure that SUNY continues to receive state matching funds for the DSH Program. The state, as the local sponsor for these three hospitals, has an obligation provide the necessary funding to ensure they are financially stable and viable, including the state match for the DSH Program. The impact of the absence of state reimbursement to cover the full share of DSH funding owed is further compounded by the loss of the state subsidy – both of which endanger the fiscal stability of these institutions. We urge the state to promptly pay the remainder of DSH reimbursement owed.

It is time for New York State to recognize that SUNY's hospitals are the state's hospitals, providing a public service for all.

## **New York State Health Insurance Benefit Exchange (NY State of Health)**

NYSUT applauds the governor and the Legislature on the establishment of a New York Health Benefit Exchange (Executive Order #42 of 2013) for the purpose of providing lower cost health insurance for over one million New Yorkers, and enabling New York to comply with the federal Affordable Care Act (ACA). We are happy to hear that almost 4.1 million of our state's citizens, who were previously uninsured, now have access to affordable health care services. Accordingly, we support the Executive Budget proposal to provide an additional \$694 million in total funds for the Exchange.

We strongly encourage both state and federal legislators to continue to oppose any efforts to repeal or alter the ACA in any way that would jeopardize or compromise the access, affordability and delivery of quality health care to our citizens.

## **Certified Registered Nurse Anesthetists**

The 2018 Executive Budget defines the scope of practice of Certified Registered Nurse Anesthetists (CRNA's) since they currently lack any official claim to their title, and work under their Registered Nurse license. Official title recognition is necessary for CRNA's as it would put them at the same level with all other Advanced Practice Nurses in New York who work under New York State education certification. A CRNA's qualifications allow them to provide the same anesthetic care as an anesthesiologist. Yet, only New York State and Pennsylvania do not allow CRNA's to practice to the full extent of their scope of practice and only under the supervision of an anesthesiologist. For certain rural and other needy areas of the state, this presents a problem as the need for anesthesiologists exceeds the supply. CRNA's can serve, as they do in all other 48 states, as the sole provider in the facilities that are lacking such care. The qualifications to become a CRNA include the following:

- a Bachelor of Science in Nursing (BSN) or other appropriate baccalaureate degree;
- a current license as a registered nurse and at least one year of experience as a registered nurse in an acute care setting;
- graduation with a minimum of a master's degree (doctoral degree in 2025) from an accredited nurse anesthesia educational program;
- passing the national certification exam following graduation; and
- passing a recertification exam to verify familiarity with all current practice trends.

## **Breakfast After the Bell**

Hunger is a reality for 20 percent of New York State's children. Children who experience hunger are at a higher risk for poor health outcomes. Food insecure children are more likely to have chronic health problems (obesity and overweight with increased risk for diabetes and heart disease) and mental health issues (including depression, anxiety and behavioral problems). Breakfast After the Bell is an important tool for educators to ensure students have adequate nutrition to learn and thrive and not be distracted by hunger or the lack of proper nutrition in the classroom. Breakfast After the Bell is a proven program in protecting children from the negative

impacts of hunger, and is linked to improving children's overall diet quality, positively impacting children's mental health and protecting against childhood obesity.

### **New York State Health Care Services**

Funding for our state's health care system must be increased to meet the needs of all New Yorkers and the health care professionals who serve them. To this end, I ask that you join NYSUT in advocating for the passage of legislation to improve the safety and well-being of both patients and workers. Specifically NYSUT calls for:

- the enactment of legislation to impose safe staffing ratios in acute health care facilities to establish minimum nurse-to-patient ratios to ensure that nurses are not overextended in meeting the specific needs of their patients;
- an extension of anti-mandatory overtime provisions for home care nurses that would restrict consecutive hours of required work by nurses, except in the case of an emergency, and does not prohibit a nurse from voluntarily working overtime. When the anti-mandatory overtime bill was signed into law (Ch.493 of the laws of 2008), home care nurses were unjustly excluded. NYSUT is seeking the enactment of provisions to grant home care nurses the same protections against mandatory overtime abuses that other New York State nurses are provided;
- requiring a minimum of one school nurse per school building to, not unlike the safe staffing minimum, alleviate overextending health care professionals with highly unsafe numbers of health care needs for the students they serve. New York State law only requires one school nurse for the entire district. A school nurse can be solely responsible for hundreds of students within the school building or, depending upon the geography of the school district, between a number of school buildings;
- the enactment of legislation to increase the amount of school counselors, social workers and school psychologists in the school setting; and
- the enactment of legislation to encourage recruitment and retention in the health care field.

### **Women's Agenda**

The Women's Agenda contains 30 proposals that focus on the advancement and equal treatment of women and girls throughout New York State, covering the areas of workplace and personal safety, education, family life and health care. The following items relate specifically to health care provisions contained in the Women's Agenda:

- defending reproductive rights by enacting legislation to codify the Supreme Court's Roe v. Wade decision and subsequent rulings into state law to secure women's access to reproductive health options. This legislation will safeguard the right of women to make personal health care decisions to protect their health (and their life, in some cases) and ensures that health care professionals can provide these crucial services without fear of criminal penalty;
- ensuring comprehensive contraceptive coverage by enacting legislation to protect the right to access contraception, including emergency contraception. Contraception has

been a critical tool for women to gain economic and social independence. The use, accessibility and availability of contraception also reduce the rate of unintended pregnancy and abortion; and

- establishing the Maternal Mortality Review Board by convening a board of experts within the Department of Health to implement an enhanced multidisciplinary approach to review each and every maternal death in the New York State and to develop recommendations to improve care and management.

Enactment of the Women’s Agenda is as important to New York State’s female population as it is timely. Over the past few months, more and more of the world has been exposed to the unequal, and often demoralizing treatment of woman and girls who have been repeatedly subjected to such treatment for generations.

### **Health Care Initiatives**

NYSUT urges the Legislature to support several of the proposed initiatives in the Executive Budget that seek to either preserve or expand meaningful medical care for New York State’s citizens. Some of these provisions include the following:

- extending the price ceiling for specific high-priced prescription drugs and limiting year-over-year price increases for generic drugs under the Medicaid program;
- continuing funding for the “Ending the Epidemic” initiative (*e.g.*, affordable housing and housing assistance) to support those who are HIV positive and by seeking to end the AIDS/HIV epidemic by identifying undiagnosed persons who may be HIV positive and linking them with treatment and medication to prevent the spread of the disease;
- continuing the commitment to fight elder abuse, wherever it may occur; and
- expanding programs to test all public water systems for contaminants on a regular basis and reporting those findings to the New York State Department of Health.

### **Conclusion**

We believe that you fully understand the important role that health care professional play in each community across our state and the nation. Medical emergencies and the expanded need for health care providers are on the rise. On a local, national and global level, we are all susceptible to a number of threats to our personal health and safety. Sadly, our school children and school staff are still at risk of being subjected to school shootings – a gruesome reality that does not seem to be declining. These tragedies require the adequate, on-site presence and expert skills of health and mental health care professionals (*i.e.*, social workers, school psychologists and school nurses) that are trained to recognize mental health disorders and are most familiar with the emotional needs within their schools. Furthermore, these professionals are best equipped to handle the healing that needs to occur in the aftermath of these horrible events, which are all too prevalent in our society today. Opioid use and addiction among youths is also on the rise. School, hospital and home care nurses are also in high demand to care for those infected with the flu epidemic. As of this week, federal health officials say at least 16 more children have died from the flu over the past week and states are continuing to report high levels of illness. The

Centers for Disease Control and Prevention (CDC) said the flu outbreak is responsible for at least 63 pediatric deaths so far this flu season.

"Hospitalizations are now the highest we've seen," said CDC Acting Director Dr. Anne Schuchat, who called the flu one of the biggest health threats currently facing the U.S. She noted that the cumulative rate of hospitalizations for serious cases of the flu has surpassed the previous peak that was recorded in the 2014-15 flu season. People age 65 and over have the highest rate of hospitalization for the flu. Clearly, the need for trained nurses who can perform under safe staffing conditions is undeniable.

NYSUT's Health Care Professional Council is supportive of various health care reforms proposed in the Executive Budget. However, we oppose any cuts that adversely affect the professional health care workforce or the facilities and environments in which they work, including the SUNY hospitals. Such cuts would restrict the ability of the state's health care system to provide direct, high-quality care to New York State residents, particularly the young, the elderly, the indigent, the uninsured/underinsured and the undocumented. Accordingly, we respectfully ask the following of the New York State Legislature:

- reassessment of the Medicaid Global Cap; and
- provide cost of living increases for health care facilities that have been denied such funding since 2005.

Through your actions, it is apparent to us that you appreciate the complex and often difficult environment in which our health care professionals must work. The members of the NYSUT Health Care Professional Council, as well as all NYSUT members, look forward to working with the Legislature and the executive to ensure that all New Yorkers have the necessary resources to ensure that they receive the highest quality of care possible.

On a personal note, before I conclude, I would also like to acknowledge and express my appreciation and awe over a group of 40 AFT/NYSUT/UFT health care professionals who selflessly used their own personal time to travel to Puerto Rico and Dominica as rescue workers after Hurricane Maria devastated the island's inhabitants.

Thank you for your consideration.

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