

A 10736 (Simon)

S 9388 (Rivera)

## MEMORANDUM IN SUPPORT

### Local Input in Community Healthcare (LICH) Act

The New York State Nurses Association represents 44,000 registered nurses for collective bargaining and is a leading advocate for universal access to high quality health care for all New Yorkers. As a union of healthcare workers, we are committed to maintaining essential health services in all communities based on local needs and regardless of ability to pay.

NYSNA strongly supports enactment of the “Local Input in Community Healthcare” (LICH) Act, which would require a public hearing and showing that local health needs or healthcare equity will not be negatively affected before DOH can approve an operator’s application to close an entire hospital or eliminate or reduce hospital emergency, maternity, psychiatric and substance used units or services.

#### **Current law related to hospital closures and reductions in capacity is inadequate to protect the public**

New York has extensive certificate of need regulations (CON) that require public notice, open hearings, and approval by the Public Health and Health Planning Council (PHHPC) before the DOH will allow hospitals to open new beds or services, expand existing services, convert existing beds or units to other types of service, undertake construction or major renovations, add new medical equipment, or transfer facility ownership or operational control to another party.

New York’s current CON rules, however, have evolved over time toward determining whether there is a community need for the added services or bed capacity and preventing the unnecessary or wasteful proliferation of hospital beds and services. The DOH approval process in New York is thus largely aimed at limiting the expansions of hospital bed capacity and services and associated fiscal costs to the State.

In keeping with this distorted regulatory structure, CON rules related to showing “public need” for hospital services do *not* apply to applications for DOH approval to reduce bed capacity, eliminate services or units, or even to entirely close a hospital. Closure applications are often handled behind closed doors, through an internal and completely opaque administrative approval process that involves only the applicant and the DOH. This process offers no advance notice or opportunity for affected communities to raise their concerns before DOH approves an application to close a hospital or to reduce or eliminate services.

The only requirement related to closures or reductions in hospital services in current law is PHL Section 2801-g, which requires the DOH to hold a public hearing no later than **30 days after the approved closure date**. Moreover, this law does not apply to unit or service closures, but only to closures of entire hospitals.

## **The LICH Act would give communities a say in decisions to close or reduce local health services**

The proposed legislation would address healthcare equity issues, unmet health needs in local communities, the lack of transparency in the DOH closure approval process, and the absence of local democratic input in decisions to approve applications to close hospitals or reduce local hospital services.

The LICH Act would amend PHL Section 2801-g to require hospital operators and the DOH to meet the following criteria *before* approving the hospitals or unit closures:

- Notice of a proposed hospital closure must be filed at least 270 days prior to the proposed date of closure and the proposed closure plan must be publicly posted by DOH and notice provided to local stakeholders, including unions, patients, and local elected officials;
- For closures, reductions or relocation of units or services within a hospital, the same notice requirements will apply, but the notice periods are shorter and the law will not apply if the reductions in beds or services do not meet a minimum threshold or if the unit closure is necessitated by the need to renovate, low patient volume or a lack of community need, or if there are acute labor shortages or financial emergencies beyond the hospital's control that necessitate closures or reductions of service;
- The applicant must submit a local health equity impact statement, assessing and analyzing local health needs and showing how the closure would affect vulnerable communities and, if there is a negative impact, requiring measures to provide alternative services and address the health impact on the local community;
- Hospitals cannot take any steps to close, reduce or transfer services prior to approval of the closure plan;
- The DOH must post the proposed closure plan, the health equity impact statement, and related documentation, notify the public, and hold a public forum to receive input from the community and stakeholders; and,
- After the public community forum, the applicant must submit a revised final proposed closure plan, along with a written report outlining its response to the various issues raised in the public forum or the health equity needs assessment; and
- The revised closure application must be then submitted for approval by the Public Health and Health Planning Council through its public hearing process.

## **Conclusion**

NYSNA supports increased democratization of the decision-making process for determining local healthcare needs and deciding on the distribution of healthcare resources. Decisions about the availability and types of services should not be made behind closed doors by self-interested hospital executives and a DOH focused on cutting healthcare expenses.

Democratization and transparency in the closure process are particularly important in an era characterized by increasing concentration and control of health care services by large hospital networks and for-profit healthcare corporations focused on generating higher revenues and profits, closing unprofitable services without regard for community needs, and shedding uninsured, Medicaid and other undesired patient populations.

**NYSNA strongly supports enactment of the LICH Act and urges the legislature to override any veto by the Governor.**