A 6004 (Simon) **S 1226 (Rivera)**

MEMORANDUM IN SUPPORT

Local Input in Community Healthcare (LICH) Act

The New York State Nurses Association represents 42,000 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 units or services.

Current law related to hospital closures and reductions in capacity is inadequate

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 have over time evolved towards preventing the overexpansion of services by operators and in their current form are focused on ascertaining whether there is a community need for the added services or bed capacity. The DOH approval process in New York is thus largely aimed at preventing too many services from being opened and by extension to limit fiscal costs to the State.

In keeping with this distorted regulatory structure, CON rules related to showing "public need" do not apply to applications for DOH approval to reduce bed capacity, eliminate services or units, or even to entirely close a hospital. These closure applications are 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 their reduction or elimination.

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 into the process for approving applications to close or reduce local health services.

The LICH Act would amend PHL Section 2801-g to require operators and the DOH to meet the following criteria ***before*** approving the closure of an entire hospital or the closure, reduction or relocation of units or services:

- 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, a lack of patient volume or lack of community need, or there are acute labor shortages or financial emergencies beyond the hospital's control;
- 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 notify the public and hold a public forum to receive input from the community and stakeholders and publicly post the proposed closure plan, the health equity impact assessment and all supporting documents prior to the public forum; 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 application must be 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.