



# *Testimony*

**to the  
Senate Finance Committee  
and  
Assembly Ways and Means Committee  
on the  
Proposed 2022-23 Executive Budget  
for  
Health and Medicaid  
February 8, 2022**

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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  
Liz Krueger, Chair  
and  
Assembly Ways and Means Committee  
Helene E. Weinstein, Chair  
on the  
Proposed 2022-23 Executive Budget for  
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Chairperson Krueger, 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 teachers, school-related professionals, academic and professional faculty in higher education, professionals in education, in health care and retirees statewide.

NYSUT's Health Care Professionals Council (HCPC) consists of representatives of NYSUT's professional registered nurses and other health and mental health care professionals working in public and private health care settings statewide. Our members work in hospitals, schools, clinics and through home health care agencies throughout New York State and include visiting nurses, school psychologists, school counselors and school social workers, registered professional school-based nurses, therapists, physicians and lab personnel. In addition, NYSUT represents nearly 250,000 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 2022-23 New York State Executive Budget proposal.

As I am sure you are aware, our medical and mental health care professionals continue to work diligently, tirelessly and often thanklessly throughout this ongoing pandemic, to care for those in need. Many of these health care workers have made personal, professional, emotional and physical sacrifices to provide care, well in excess of their usual capacity. Many have even lost their lives while helping others recuperate. NYSUT would be remiss to not acknowledge and honor them in our testimony.

I would like to thank you for the numerous legislative initiatives the Senate and Assembly have passed in the last several years that 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 the Legislature has towards those who have dedicated their lives to the health care profession. Your actions enable these health care professionals to continue to provide their patients with high-quality health care services.

When NYSUT testified last year, we were hopeful that our state and nation would have pandemic well under control by now. While the COVID-19 vaccine has been fully administered to 72 percent of the state's population, (with 80 percent of the state's population receiving at least one dose) over the past 22 months, the COVID-19 pandemic has killed 900,000 Americans and negatively affected nearly every facet of our lives. For example, the virus has severely impacted the U.S. economy and the American labor force. Our state, as the epicenter for the virus, has resulted in job losses for millions of New Yorkers and has forced them to file for Unemployment Insurance, which, for many, has also resulted in the loss of health insurance. This has unfortunately led to an increase in Medicaid enrollment.

## **Medicaid**

The 2022-23 New York State Executive Budget for Medicaid (state share) continues the yearly Medicaid Global Cap spending limit but alters the metric, historically used on growth, to a five-year rolling average of Medicaid spending. The modified metric on the \$600 million cap provides an additional \$366 million in SFY 2022-23 and \$33 million in state-share Medicaid spending for SFY 2022-23.

While we hope the executive's decision to modify the Medicaid Global Cap for SFY 2022-23 takes inflation rates into account, the increase in spending is certainly appreciated by NYSUT as we have always contended that any cost-cutting measures placed on the state's health care spending will significantly compromise the delivery of health care services and programs to all New Yorkers, especially our neediest populations.

## **Recruitment and Retention**

NYSUT was pleased to see Governor Hochul's commitment to grow the state's health care workforce by 20 percent over the next five years and we hope you are equally committed and supportive of this objective. It is a very ambitious goal, one that requires dedication and outreach to those health care professionals and facilities for whom this goal is designed.

We must do everything possible to incentivize existing nurses to remain in the profession while also taking steps to attract the next generation of caregivers.

Unfortunately, all too often, we hear heartbreaking stories from our members, who describe the dangerous and stressful conditions in which they must work. Many are leaving the profession because of the physical and psychological toll it has taken on them.

Hospitals that were forced to cancel certain surgeries and elective procedures due to the overwhelming number of COVID patients they had to serve, are now trying to recoup their losses by rescheduling those appointments. In these facilities, the nurse-to-patient ratios are dangerously low.

Furthermore, despite their best efforts to remain as protected as possible from COVID, the flu or the transmission of any other disease, nurses are still getting sick. Nurses sometimes must endure psychological or physical by their patients. Many nurses are leaving New York State to pursue better paying private sector nursing jobs or leaving the profession to secure better paying jobs with less stress altogether.

It is imperative that our state does all it can to alleviate the financial barriers to becoming a nurse and offer relief to nurses who are still paying for completed New York State nursing programs. Therefore, NYSUT supports nursing scholarships and loan forgiveness programs for New York State schools, as well as scholarship funding for essential employees who committed to working during the COVID-19 pandemic and for the families of essential workers who died as a result of COVID-19.

*Senator Patricia K. McGee Nursing Faculty Scholarship Program*

To help further bolster the nursing ranks in our state, we would ask that funding for the Senator Patricia K. McGee Nursing Faculty Scholarship Program continue and its amount be increased to reflect any inflationary changes in tuition. This scholarship program is offered to RNs for graduate programs that will qualify them to serve as nursing faculty or adjunct clinical faculty. Teaching professionals in health care are in such high demand due to faculty shortages. NYSUT believes scholarship programs, such as this, are a necessary component to recruit qualified nursing candidates and retain experienced nurses.

*Mental Health Grant*

As mentioned previously in my testimony, the psychological exhaustion suffered by our state's nursing staff, particularly over the last couple of years, must be treated by mental health professionals as needed. While we trust that most nurses have some form of health insurance to connect them with a mental health professional, we realize that access to a therapist may be limited. As such, we would like to see New York State establish a grant to develop a mental health program for nurses that would guarantee their access to a trained therapist. The state Office of Mental Health currently offers HOPE NY, which provides a 24/7 hotline to direct the caller to the specific crisis center needed. However, the introduction of a grant program to expand services — such as a mental health hotline dedicated for nursing staff — would be quite valuable in helping nurses who may be experiencing work-related stress or struggling to cope with the overwhelming demands of the profession.

*Nurses Across New York*

The executive budget proposal establishes a student loan repayment program for registered nurses who agree to practice in an underserved community for three consecutive years. NYSUT believes this approach will incentivize RNs to commit to work in these areas, while relieving them of the often-significant debt of that accompanies such a degree. However, the executive budget language is unclear as to the definition of an “underserved community.” We believe this definition must be clarified, and we would also like to see additional details as to how this is determined. I can tell you that there are many underserved communities throughout our state, and this program should reflect the actual needs of these communities. We would also suggest the state develop nurse scholarship programs which, we believe, would incentivize more people to consider going into the health care field who may not have the means to pay for tuition.

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

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

### *Anti-Mandatory Overtime Protections for Home Care Nurses*

Chapter 495 of the Laws of 2008 provided protections to most nurses in New York State from being required by their employer to work overtime. The law states that a nurse cannot be required to work beyond their regularly scheduled work hours except in the case of an emergency. However, this law does not restrict the number of consecutive hours a home care nurse may be required to work. This means that nurses who make home care visits or work in a home care setting can be forced by their employer to work beyond their regularly scheduled hours with little or no warning and as frequently as the employer sees fit.

Without anti-mandatory overtime protections, NYSUT's home care nurses have reported being asked by management, on multiple occasions, to make unscheduled visits to patients throughout the workday that exceed a meticulously established care plan for the day or week. Unscheduled visits result in either some scheduled patients having their appointments cancelled, or nurses being forced to work longer hours to accommodate the increased number of patients. This practice by management creates chaos for nurses in terms of care delivery planning, travel, contemporaneous documentation (best practice) and care coordination and communication between the various disciplines (nurses, physical therapists, occupational therapists, speech-language pathologists, medical social workers, nursing supervisors and physicians involved in care) and patient-selected caregivers.

Unscheduled visits unfairly tax the home care workforce, decrease nurse job satisfaction and negatively impact the patient-care experience through late or unannounced visits. Unscheduled visits increase the percentage of late reporting by clinicians who have worked an exhaustive schedule. These types of delays and potential errors can result in unfair discipline against the nurse. Job dissatisfaction, abusive caseload assignments and poor work-life balance often result in professional attrition. This is costly and does not meet the national need for retention and recruitment of home care nurses in either educational curricula or in workplace practices.

Due to nursing staff shortages throughout our state, home care nurses are often subjected to mandatory overtime. Working long hours in such a high-stress environment can take its toll on nurses and their patients. For nurses, one of the first casualties of mandatory overtime is adequate rest. Having the proper amounts of rest and downtime between patient home care visits minimizes the risk for medication errors, enhances the ability for nurses to thoroughly review patients' records and clinical assessments and carry out comprehensive patient-centered care plans. Adequate rest also enhances the clinician's ability to carefully follow the necessary pandemic protocols between themselves and their patients. Furthermore, when home care nurses are adequately rested and are not forced to work mandatory overtime, they are less likely to get into an accident while traveling between patient visits.

Over a prolonged period, exhaustion, as a result of forced overtime, often results in cumulative negative effects on the nurse during their shift, in their personal life and to their physical and mental health. Professional attrition due to health impairment is a common occurrence, especially during a nursing shortage and a pandemic.

The COVID-19 pandemic has created a heightened threat to the safety of home care nurses and their patients. Many recently released COVID-19 patients have not yet fully recovered (still positive and symptomatic) and prolonged exposure, through mandatory overtime requirements, increases the risk to home care nurses of contracting this disease.

Additionally, the difficulties of mandatory overtime and following COVID-19 safety protocols have affected home care nurses by adding a substantial amount of time to an already overscheduled day. The careful, proper donning and doffing (removal) of PPE when arriving to and leaving their workplace setting adds significant time to the workday. Also, clinicians must do a self-screening assessment at the start of each workday.

Patient care must also be factored into the home care nurse's day. Ideally, home care referrals should come with complete clinical documentation information attachments. If such information is incomplete, which is often the case, additional time is needed to sift through the patient record to ascertain pertinent baseline data – some of which includes COVID-19 status. Patients must answer a series of COVID-19 pre-screening questions prior to scheduling the visit. In most cases, nurses must provide additional COVID-19 support in educating the patient and their family about COVID-19 prevention and self-care management techniques.

No nurse should be forced to work hours that they are not regularly scheduled to work and/or did not initially agree to work because of poor staffing decisions by their employer. As a matter of parity, an employer in the home care industry should not be able to force its nursing staff to work extra hours under non-emergency conditions.

NYSUT urges the Legislature to restrict mandatory overtime hours worked by nurses in the home care setting by passing S.4885-A (Savino)/A.181-A (Gunther), or by including the provisions of this legislation in the enacted 2022-23 budget.

#### *Anti-Mandatory Overtime Enforcement*

While the anti-mandatory overtime law established a good policy, it included no concrete repercussions for violators. To strengthen the enforcement mechanisms that prohibit an employer from subjecting nurses to mandatory overtime, we ask that you pass S.1997-A (Jackson)/A. 286-A (Gunther), which will create a fine of between \$1,000 and \$3,000 for each employer infraction and allow the employee who is wrongfully forced to work such overtime to receive an additional 15 percent of "overtime payment" as bonus pay.

#### *Hiring of Critical Staff in the School Setting*

It is uncertain as to how deep the immediate and prolonged mental and physical effects of the COVID-19 pandemic will be on our students. What must be certain, however, is that school districts are able to provide licensed/state certified health and mental health professionals in each school building to address the broad range of student needs.

School-age children are forced to deal with an ever-increasing number of issues such as anxiety, depression, suicide, peer pressure, sexual identity and abuse, bullying, academic problems, home life, learning disabilities, alcohol and substance abuse and the threat of school shootings. These are statewide issues that transcend race and economic background and must be addressed in each school building by properly trained professional staff.

Students spend a fair amount of time in school, which offers mental health professionals the opportunity to observe, connect with and relate to each member of the student body. When these professionals are in our schools, they are more accessible to students who require or seek their assistance. Students are more likely to access mental health services if they are readily available to them.

In previous years, we have spoken about the need for ample school: nurses, social workers, counselors, and psychologists. As we enter the third year of this pandemic, we have all come to realize just how crucial our health and mental health care providers are. I am certain that you have witnessed firsthand the impact the pandemic has had in your districts and in our communities. To help ensure student success, NYSUT supports the executive budget proposal for a two-year matching grant program of \$100 million to address student well-being and learning loss in response to trauma brought on by the COVID-19 pandemic. This grant is to be used for student mental health supports, such as the employment of mental health staff or for the creation of programs to address learning loss, such as summer learning, after-school or extended day and year programs for students. While this is a great down payment on work that must be done for our students, educators and the future of this state, we must commit to this in the long-term — as we have outlined in the Future Forward Report. To ensure that proper staffing is in place, NYSUT recommends the passage and enactment of the following bills:

- S.1969 (Jackson)/A.5019 (González-Rojas), which requires schools to employ at least one full-time social worker and at least one licensed school psychologist;
- S.831 (Gounardes)/A.7473 (Clark), which requires schools to employ at least one school counselor; and
- S.4782 (Jackson)/A.666 (Cahill), which will ensure that all public school districts and boards of cooperative educational services employ at least one registered professional nurse in each school building.

### **Interstate Medical Licensure Compact**

Nurses in New York State are held to high standards before they can be licensed and certified to practice here. Accordingly, when a statewide policy is proposed that can potentially surrender or compromise our high quality of care, we are naturally apprehensive to embrace such a change.

With regard to the Interstate Medical Licensure Compact, we are concerned, as is our national affiliate — the American Federation of Teachers — that binding New York to a multistate compact may dilute the oversight and enforcement capabilities of New York's licensing standards to those found in states with poorer health care access, quality and overall public health and who subscribe to non-union practices.

Additionally, entering into a permanent multistate compact with anti-union states would lend itself to the possibility that non-unionized workers from those states can undermine on-going contract negotiations at any health care facility in our state. Furthermore, as I mentioned earlier in my testimony, we should be working to keep our nurses in New York State. The enactment of such a compact would allow our highly trained nurses to more easily leave our state to practice elsewhere. We should instead focus on developing incentives to retain our nurses rather than facilitating their departure.

## **SUNY Hospitals**

We want to thank the Legislature for its support and advocacy for the SUNY hospitals over the years. Unfortunately, the 2022-23 executive budget proposal continues the alarming trend of dramatically underfunding the three State University of New York Hospitals in Syracuse, Brooklyn and Stony Brook. As I am sure you recall, these teaching hospitals, which serve all New Yorkers, used to receive financial support that was improperly referred to as a “subsidy.” As part of the 2018-19 New York State Executive Budget, the “subsidy” was eliminated. With your help we were able to get the money restored for what turned out to be the last time, as every budget proposal since has failed to include these vital funds. This money, which is more properly characterized as “mission funding,” helped to ensure the financial well-being of these hospitals and guaranteed access to health care for the communities that depend on them.

This mission funding was vital for these hospitals and was first provided in 2001, in lieu of debt service and fringe benefits, which the state had covered many years ago. The three hospitals have been front and center in the battle against COVID-19. SUNY Downstate was so critically important, it was designated as a COVID-only hospital. These hospitals operated by SUNY are the state’s hospitals and, as such, the state should provide support to ensure their financial stability and viability. This includes funding to grow and expand the services needed to keep up with the various advances in health care and the challenges posed by COVID-19 and its variants. Properly funding these vital teaching institutions will provide security and help ensure that New York is ready for the next health crisis. We would ask that this critical mission funding be restored to the 2017-18 level of \$87.9 million.

Additionally, the SUNY Hospitals are the only state entity to not receive debt service relief from New York State. As you may recall, the state used to provide \$157 million to the three hospitals for that purpose. We would ask that the state provide \$68 million to cover the SUNY Hospitals’ debt service as is done for every other state agency.

Expecting these hospitals to continue to perform at the high levels they have been, despite chronic underfunding, is unrealistic. Denying adequate funding, continuing to find new ways to cut funding and failing to recognize the sacrifices of our members who work at these institutions, is unfair.

While we are thankful that the executive budget proposal includes \$150 million in capital funding for alterations and improvements to SUNY Upstate, SUNY Downstate and SUNY Stony Brook, these hospitals, their patients, and the front-line heroes who work in them deserve more.



## **Health Care Access for Financially Disadvantaged New Yorkers**

NYSUT recognizes that our state has a number of residents who cannot afford to cover the cost of their health care. To this end, we support any efforts by the state to assist this population with their medical needs and well-being. We support the following programs as a way to ensure that the state's most vulnerable populations are able to access the health care they and their families need.

### *Financially Distressed Hospitals (FDH)*

We are supportive of the executive budget's \$100 million increase for FDH that provide safety net funding to hospitals to assist in paying for the cost of care to low-income individuals who cannot afford or do not have adequate health insurance. We would also like to see funding go towards expanding the workforce in these facilities so ample attention can be given to those seeking care.

### *Expansion of the Essential Plan*

The Essential Plan (EP), managed by the New York State Department of Health, provides low- and moderate-income New Yorkers with an affordable health insurance option. The executive budget expands eligibility over the previous year by eliminating the yearly co-pay for families with income levels between 200 and 250 percent of the Federal Poverty Level, thereby ensuring consistent health care coverage.

### *Child Health Plus*

Expanded coverage for Child Health Plus and elimination of the \$9 monthly premium for children of families with household income levels less than 222 percent of the Federal Poverty Limit.

### *Maternal Health*

Prenatal and postpartum care and services recommended by a licensed practitioner or physician will be considered standard coverage under the state's Medicaid program as well as extending coverage, for one year from the day of child delivery, despite and change in income status.

### *Reproductive Access for All*

This program requires every group or blanket accident health insurance policy that provide medical, major-medical or similar comprehensive-type coverage in New York to provide coverage for abortions and that the coverage not be subject to copayments, coinsurance or annual deductibles unless the policy is a high-deductible plan.

### *Telehealth Parity*

We agree that telehealth certainly has its benefits during a pandemic — for both health care professionals and patients. Last year, we stressed the importance that any interstate exchange of health care services be performed by qualified licensed health care professionals, based on need of medical services and not solely on profit. The 2022-23 executive budget establishes reimbursement parity for telehealth services to be the same as in-person visits to a health care provider. We support this practice.

## **Conclusion**

NYSUT's Health Care Professional Council is supportive of the increases in funding under the Medicaid Global Cap as well as various health care reforms proposed in the executive budget. However, we will condemn any cuts in the enacted budget that adversely affect the professional health care workforce or the facilities and environments in which they work, including the SUNY hospitals — especially amid the COVID-19 pandemic. Such cuts would restrict the ability of the state's health care system to provide direct, high-quality care to New York State residents.

We believe that you fully understand the important role that health care professionals play in each community across our state and nation, and through your actions, it is apparent to us that you appreciate the complex and often difficult environments in which our health care professionals must work. We also believe that you understand the need to retain and recruit health and mental health professionals to work in our medical facilities and schools. NYSUT looks forward to working with the Legislature and the executive to ensure that all New Yorkers have access to the highest quality of health care possible.

Thank you for your consideration and the opportunity to submit my testimony to you today.