

## Testimony of President Willie J. Hampton, SEIU Local 79

### Patient Safety

Low staffing levels in hospitals have become one of the nation's biggest health care problems over the past 20 years. Many hospitals have required nurses and other staff to take care of more and more patients, making it increasingly difficult to provide the quality of care patients need. In Michigan, we cannot wait for federal standards for patient safety and quality care that needs to establish minimum nurse-to-patient ratios and other staffing levels for all hospitals and other health care facilities.

#### 1.) **Minimum staff-to-patient ratios will:**

- **Protect patients and save lives.** A growing body of evidence confirms that inadequate staffing is leading to tens of thousands of preventable injuries, infections, and deaths in hospitals each year. Minimum nurse-to-patient ratios will reduce the risk of medical errors and complications by ensuring that nurses have enough time to properly carry out treatments prescribed by physicians, continually assess and monitor patients—and modify interventions accordingly, as well as provide education to help speed recovery and prevent relapses.

The State of Michigan and the health care industry need to redefine what Nursing Care Personnel means. In regards to staffing levels, Nursing Care Personnel should only include those employees actively engaged in patient care. This should only include nursing personnel that are actively at the bedside, excluding all those who do not perform direct patient care. Nursing Care Personnel should not include supervisory personnel or any other employee not actively engaged in the direct care of patients.

- **Create a safety net in all hospitals.** Left to their own devices, hospitals will continue to respond to the cost-cutting pressures of managed care by staffing at barebones levels—even though it jeopardizes the safety of patients. Establishing minimum staffing ratios by unit in all hospitals will guarantee a safe level of care for patients, who are not always able to choose their hospital or transfer to another if they are not satisfied with their care.
- **Solve the growing shortage of nurses.** Understaffed and unable to provide the highest quality care, more and more nurses are refusing to work in hospitals. In fact, only 1.3 million of the nation's 2.7 million licensed nurses are working in hospitals today. The only way to solve the shortage is to improve the staffing levels that are driving them away.
- **Reduce the cost of medical errors and high turnover rates.** Understaffing is taking such a huge financial toll on our health care system. Michigan can't afford not to set safe staffing standards. The Institute of Medicine estimates the national cost of preventable medical errors and complications to be \$17 billion a year. In

addition, the high turnover rate associated with understaffing dramatically increases hospitals' expenditures for recruitment, training, overtime, and temporary and agency staff. Because it costs a hospital roughly twice as much to replace a nurse as it does to retain one, safe staffing levels will save money as well as lives.

2.) **Expanded Whistleblower Protection for Hospital Workers**

**PA 731 of 2002, (HB 5829) Vander Veen**

This bill provides a hospital worker immunity from civil or criminal liability and protects them from being discharged, threatened, or otherwise discriminated against by the hospital regarding his or her compensation or the terms, conditions, location, or privileges of his or her employment, if he or she reports to CIS (verbally or in writing) an unsafe practice or condition, that is not currently protected under Article 17 of the Public Health Code.

A hospital worker would be eligible for this immunity and protection under the following conditions:

1. The person would have to give the hospital 60 days' written notice of the unsafe practice or condition. During this 60 day period a person could not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of his or her employment.
2. And the person has a "reasonable expectation" that the hospital has not taken or will not take timely action to address the unsafe practice or condition.

The hospitals must respond in writing to the complaint within 60 days. Furthermore, hospitals are required to post notices and use other appropriate means to notify hospital workers of their rights and protections under this act. This notice has to be on a CIS approved form, available on CIS' Internet Website and must be posted in "conspicuous places."

The bill specifies that these protections would not limit, restrict, or diminish, in any way, the protections afforded under Michigan's Whistleblowers' Protection Act. Furthermore, the hospital worker would also be granted the immunity and protection if he or she were required under any other state law to report the unsafe practice or condition before sixty days, for example MIOSHA violations and mandatory reporting requirements.

**BACKGROUND:**

Michigan's Whistleblowers' Protection Act, Public Act 469 of 1980, prohibits an employer from discharging, threatening, or otherwise discriminating against employees who report a known or suspected violation of a law, administrative regulation or rule, or a local ordinance. Whistleblowers who believe that their employer has retaliated against them for reporting such a violation may sue for an injunction and damages.

Article 17 (concerns health care facilities and agencies) of the Public Health Code, grants immunity from civil or criminal liability and protection under the whistleblowers' act to persons employed by or under contract to a health facility or agency (or to any other persons acting in good faith) who do any of the following: make a report or complaint, including a report or complaint of a violation of Article 17 or a rule promulgated under the article; assist in originating, investigating, or preparing a report or complaint; or assist CIS in carrying out its duties under the article. The code requires CIS to protect the confidentiality of complaints made by health care workers regarding violations of the article unless and until the complainant is required to testify in disciplinary proceedings.

Patient safety cannot be effective unless the State of Michigan address the Health crisis in Nursing Homes.

Nursing homes are often under funded. As a result, they often close for financial reasons. Others are so badly managed that the State withdraws their licenses and shut them down. When this happens, patients are forced to move into new facilities. It has been established that the forced relocation of nursing home patients exposes them to increase depression, serious illness and elevated mortality risks.

The establishment of physical and financial standards for the operation of these homes should start at the front end. Homes should not be allowed to open unless they are determined to be able to provide a measure of stability, are adequately funded and provide reasonable physical surroundings. Policing these homes after they are up and running, while important and not nearly done enough, is something that happens late in the game. The time to prevent the problems is before they occur. Nursing homes are pervasively regulated. But, the enforcement of the regulations is spotty and infrequent. There just are not enough people assigned to this important task.

Employees who constantly turn over because they are in dead end jobs that do not provide the bare minimum for a decent life cannot serve the stability needs of patients. Patients are entitled to trained employees who can properly minister to their needs and anticipate their wants. Sadly, we are a long way from accomplishing this in Michigan.

The union is a partner in the improvement of services for patients. Our members, who number in the thousands, are also citizens of their communities. Their [parents often are the disabled and infirmed patients in nursing homes. They share the community concern for decent levels of care. They know out of their experience both as recipients of services and as care providers that quality care requires a well paid and will trained work force.

We are not unrealistic. We know that nursing care is primarily paid for out of limited government funds. We are sensitive to the squeeze on these funds which has largely been the result of the Bush deficits achieved through underwriting tax breaks for his rich friends. Hopefully, the American people will react to this unfairness and a new epoch of public concern backed with adequate public financing will come into being during the next four years.

There are a number of areas that need to be addressed.

- 1.) Training: We should begin to build a partnership with the state's teaching facilities to provide training for Certified Nurse Assistants. Public funds allocated to state institutions should be earmarked for this vital task. The total cost cannot be born by the already poorly paid employees nor should the entire burden be placed on under funded nursing homes.
- 2.) Funding: In the past the legislature, mindful of the needs to maintain a stable work force has provided for a wage pass through to nursing home care givers. That pass through legislation must continue to be increased. Steps should be taken in the legislation to ensure that nursing homes do not divert there monies from the real purpose of improving the economic well being of the intended recipients.
- 3.) Staffing: there must be adequate staffing in these facilities. Staffing is a function of care and safety. People walk into nursing homes that appear to be clean and neat and are assaulted by the acrid smell of urine. That does not have to be. It exists because there are not enough care givers to deal with the most fundamental needs of patients.
- 4.) Patient Abuse: the union is supportive of efforts to eliminate patient abuse. There must be safeguards for both the patients and the care givers. The current legislation dealing with patient abuse needs to provide that findings against a care giver not trump the just cause provisions in a collective bargaining agreement. Employers are concerned that if they do not honor the finding from an administrative proceeding against a care giver they will forfeit their license. Collectively bargained procedures should be protected by state law and regulation. The findings of an agency should be admissible in an arbitration proceeding but not be determinative of whether just cause existed for a penalty. An

employer should not be penalized for observing the provisions of a collective bargaining agreement.