



**Testimony of Deborah Walker MSN, RN, Executive Director**

**New Mexico Nurses Association**

**October 13, 2020**

**Before the Legislative Health and Human Services Committee**

Pre-pandemic, 2020 was designated as the “Year of the Nurse and Midwife” by the World Health Organization. This was done to recognize the 200th anniversary of the birth of Florence Nightingale and to highlight the fact that the world needs *6 million more nurses by 2030*, thus encouraging governments to invest in nursing education and practice.

The pandemic focused an even brighter light on the importance of nurses and the shortage of nurses throughout the world. In New Mexico, we know we have roughly less than ~~only~~ 165,000 licensed RNs, Clinical Nurse ~~Specialists, Certified~~ Specialists, Certified Nurse Practitioners and Certified Nurse Midwives actively practicing in New Mexico. We know we need to continue efforts to increase the magnitude of NM nurses, become more knowledgeable about our demand for nurses, and maintain current efforts. NM not only needs ~~nurses, nurses;~~ New Mexicans deserve nurses.

The New Mexico Legislature has long recognized the shortage of health care providers in New Mexico and has taken steps to address the health care access needs of New Mexicans. For the past three decades. The New Mexico Legislature has been very forward leaning to ensure a strong nursing workforce for the State.

- For example, in 1993 in a bipartisan, bicameral manner independent practice for certified nurse practitioners, including the authority for prescribing controlled substances was enacted. The Legislature also ensured that Clinical Nurse Specialists and Certified Nurse Midwives have independent practice and prescriptive authority-
- For the most part, the NM Nurse Practice Act remains a statute that allows nurses licensed in New Mexico to practice to the full extent of their education and training and has only needed rare amendments to reflect advances in nursing education and practice.
- Recognizing the import of a strong nursing workforce for the State, the NM Legislature also established several state-based loan programs as incentives to address the: nursing shortage, aging of the nursing workforce, challenges in recruitment and retention of nursing faculty, maldistribution of the nursing workforce, and, nurses to serve in the State.
- Administered through the New Mexico Higher Education Department these are:

- New Mexico Loan for Service for pre-licensure (Associate and Bachelor degrees) nursing students,
- New Mexico Loan Repayment for Nurse Practitioners,
- the Nurse Educator Loan for Service program, and,
- the New Mexico Health Professional Loan Repayment Program in which nurses are included.

The LFC Report: Nursing Expansion and Workforce | Report #20-03 | July 16, 2020 concluded that “such State investment has yielded more New Mexico-educated nurses and that New Mexico’s nursing workforce is getting younger.”

- In 2019, to address the practice environment for nurses and patients, the NM Legislature enacted a Safe Harbor for Nurses Act “requiring employers to offer safe harbor to nurses who are requested to engage in practices that nurses believe to be in violation of their legal duties, requiring employers to develop a process for invoking safe harbor, preventing employers from disciplining nurses for invoking safe harbor.”
- The NM Legislature has consistently ensured supply data through the health profession licensing boards and analyzed by the New Mexico Health Care Workforce Committee.
- The New Mexico Health Care Workforce Report has been duly transmitted to you and you heard testimony this morning on the Report. Additional testimony on various facets of supply, demand, nursing education and need has also been presented. NMNA would therefore like to focus on action items for consideration that will address additional workforce needs given the current public health crisis, provide additional data for policy makers, and address the need to sustain the current nursing workforce for the State. While several of these recommendations have fiscal implications, others while needing statutory changes do not need for monies from the NM General Fund.

We submit the following requests for your consideration during the 2021 Legislative Session:

- 1) Codify and fund the position of a Chief Nursing Officer within the Office of the Secretary of ~~Health~~ Health;
- 2) Increase staffing levels in the NM Department of Health, Public Health Division by an additional 30 FTEs;
- 3) Ensure a school nurse in every school district;
- 4) Require the NM Board of Nursing to create a data collection portal for those nurses practicing in NM under the enhanced multi-state licensure compact.
- 5) Add two more nursing members on the NM Board of Nursing;
- 6) Be cognizant of the impact of the fragility of the PPE supply chain on the retention of nurses in acute care settings; and
- 7) Continue to receive updates on the implementation and effectiveness of the Safe Harbor for Nurses Act.

To provide more context regarding these requests, we submit the following:

### **1). Codify a Chief Nursing Officer Position within the NMDOH Secretary of Health Office**

While historically this position has been in place during different administrations, it is currently not filled or funded. There is no statewide executive strategic voice for nursing statewide, and we believe this critical role is necessary. We need a statewide strategy, plan, and execution of plans that include community and employers of nurses in efforts to decrease nurse vacancies and current rising need for high numbers of traveler nurses. Such a position could expedite this process and coordinate an inter-agency process. Additionally, many are calling for funding of nurse residencies and we believe if the State eventually invests in that endeavor it should not be administered by a non-governmental entity. A CNO within the NMDOH could ensure development of a quality, baseline nurse residency curriculum, administer a process for competitive grants and monitor quality and outcomes of such an effort. There is no centralized system that coordinates clinical placements between higher education institutions and providers and the nursing student. The role of such a CNO could include coordination of placement with the goal of placement into known areas of maldistribution of the workforce.

### **2) Increase staffing levels in the NM Department of Health, Public Health Division by an additional 30 nursing FTEs**

We want to highlight the recommendation detailed on page 116 of the NM Data Workforce Report: Recommendation Number 6: Increase staffing by an additional 30 FTEs – establishing at least one per county – for public health nurses at a midpoint annual salary of \$65,000 each. We have seen an erosion of the number of public health nurses serving the State. We need to rebuild the number of career Public Health Nurses and improve options and availability for a career ladder for advancement and loan for service repayment and tuition reimbursement for professional development. According to the Nursing Expansion and Workforce | Report #20-03 | July 16, 2020 “ The Department of Health has reduced nurse vacancies through increased compensation, but still spends substantial amounts on contract nurses. [Contract nurses work at the Veterans Center in T or C, in.....](#) The total number of non-administrative nursing positions at DOH grew 18 percent between July 1, 2018 and May 1, 2020. ....DOH continues to spend heavily on contract nurses, an issue pointed out in previous LFC reports. Total contract amounts grew by 39 percent since FY14, from \$4.2 million to nearly \$5.8 million, indicating the state has further progress to make on competing with the private sector for highly qualified staff in the nursing profession.” From a public health standpoint alone, we believe it is time to rebuild statewide distribution of nurses in this sector as we address issues of immunizations across the lifespan and hope for a vaccine for COVID-19.

### **3) Provide for a School Nurse in Every District**

Recommendation 7 on page 116 of the Data Workforce Report is: Increase the number of school nurses to ensure at least one school nurse in each school district statewide: there are approximately 15 districts without a school nurse.

In this time of COVID, more school nurses are needed not less, to develop, coordinate and execute increasingly innovative strategies for improving immunization, health education and management of medical and behavioral health conditions in our school aged children. /citing again the recent report from LFC:".....18 out of 89 (1 out of every 5) state school districts reported having less than one full-time school nurse in FY19. Rural school districts sometimes contract nursing services through Regional Education Cooperatives (RECs), sharing full-time

school nurse positions with other small school districts. Some school districts also leverage the state's 73 federal- and state-funded school-based health centers to provide health services to students. For FY20, the Legislature appropriated \$1 million for RECs and \$1.4 million for school-based health centers to supplement their services to public schools."

**4) Require the NM Board of Nursing to create a data collection portal for those nurses practicing in NM under the enhanced multi-state licensure compact.**

On any given day we have no idea how many nurses are practicing in New Mexico under the Multi-state Nurse Licensure Compact. Health systems are reluctant to provide such information even in the aggregate on a routine basis and we do not believe this should be delegated to the employers. To be consistent with the process of currently attaining supply data, we request that you introduce language to amend the NM Nurse Practice Act to require the NM Board of Nursing to collect data on the employment of nurses whose primary residence and state of licensure is outside New Mexico. A portal should be created for the compact nurse to enter his/her name, state of license and practice setting and geographic location if in the state 30 or more days.

**5) Introduce statutory language change to increase the number of nursing positions on the NM Board of Nursing from four to six.**

Since this language was originally enacted, the practice and education of nurses have evolved and health systems have changed. [Nurses are also the largest health care profession in the state.](#) Additional positions could better represent the range of and complexities of the practice arena for nurses in the State. We believe that the Act should specify at least one of these positions should be for an individual with a background in nursing education, one should have a background in advanced practice nursing, and we believe there should be a LPN on the Board as well. Increasing the number of positions would allow for a strong geographic representation and a representation of the diversity in the workforce. We believe that the revenue stream for the Board of Nursing can sustain this request.

**6) Monitor and ensure oversight re: Personal Protective Equipment (PPE) and the impact on nurse retention in our nursing workforce**

It will be critical to assess the impact of the fragility of the PPE supply chain on the retention of nurses in New Mexico. Nationwide and here in New Mexico we are not at the pre-crisis standards for equipment for our nurses that were in place prior to the pandemic. Having the security of knowing that they are valued enough to have personal safety and protection in place as they practice is critical to retaining nurses in the workforce. While supply chain issues exist intermittently for gowns and gloves, we want to specifically address concerns on availability of masks. Please know that what might be requested and received by employers does not necessarily reflect what is needed by the nurse to ensure his/her health is protected during practice.

Reuse of masks and use of cloth masks in clinical settings are issues. There is no documented research available citing adverse effects of vaporized hydrogen peroxide decontaminated N95s on the pulmonary function of the nurse. It is important to note that the [FDA cited Battelle](#), one of the largest manufacturers of the vaporized hydrogen peroxide decontamination systems, for failure to appropriately report adverse events associated with their decon process.

We would like to highlight a few points regarding decontamination that are important to reference in lieu of the unknowns regarding respiratory associated adverse events.

1. Studies on decontamination date back to as early as 2009, yet, a key limitation of these studies is the lack of evaluation within real-world conditions.
2. Findings, to date, citing the number of times an N95 can be reprocessed and worn without degradation in form, fit, for filtration are based upon laboratory conditions where form is assessed using mannequins or limited fit testing on real subjects conducted within a laboratory.
3. Whether an N95 is suitable for decontamination is dependent upon the material used during manufacture and manufacture guidelines. This must be verified before decontamination is considered.
4. Studies do not factor in current contingency or crisis practices of extended use and reuse BEFORE the process of decontamination. Reuse alone is proven to alter fit independent of extended use practices that are currently in place. According to the study cited [here](#), there is degradation in form and fit following 5 don and doff cycles (again independent of extended use that often spans 8-12 hours over a typical shift)
5. The type of system used and the position and placement within the chamber of a decon system affects the level of exposure to vaporized hydrogen peroxide during processing. This leaves unknowns regarding the level of cleanliness and the amount of time off gassing is needed before returned to the wearer which emphasizes the need to have the proper standards and quality control systems in place for post process evaluation and adverse event reporting (per OSHA standards occupational exposure to vaporized hydrogen peroxide must be less than 1.0 ppm).

We all have much work to do to protect the health and safety of our nursing workforce. Ensuring a strong supply chain will be a necessity that needs to be monitored by the New Mexico Department of Health and you in your oversight duties. [ATTACHMENT A is a statewide survey](#) We have attached a survey from our nurses here in NM. [It serves](#) as a snapshot of what transpired here in NM. We will be conducting another survey, after the December holidays, prior to the beginning of the legislative session to provide you with current information from the nurse's perspective. [Across the board, what is clear in the results is that nurses feel confident in their knowledge regarding infection prevention and control. The survey has identified that these nurses on the front lines are engaged. They know that they have been given information from several sources that is changing and confusing, incorrect, threatening and contrary to what they know. This is not only dangerous for all, but it causes a great deal of moral distress in their decisions to choose between safety and lack of supplies and equipment, their commitment to patients vs. themselves and family, their requests for what they need to care for patients and protect themselves vs. the risk of losing their jobs for speaking up.](#)

[Nurses provide safe, quality, compassionate and nondiscriminatory care to their patients and the communities in which they serve. What the professional nursing community asks for in return for caring is to be protected and supported so that we can continue to care for patients and educate the public.](#)

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**7) Update on the implementation and effectiveness of the Safe Harbor for Nurses Act.**

In the interim preceding the 2019 Legislative session the Legislative Health and Human Services Committee endorsed safe harbor which led to the enactment of the statute. We are not asking for any adjustments to the statute at this point in time. Rather, professional associations and health care systems need to be providing much more education about the Act, process and monitoring what transpires if safe harbor is invoked. Unfortunately, while employers feel they have met the legal requirements, most nurser respondents were not aware of their rights in this process. Those that call the NMNA office and those who responded to the survey still fear retribution, particularly during a time when there are numerous staffing issues because of the pandemic and hiring freezes. ATTACHMENT B highlights rResults of a statewide Safe Harbor survey conducted by NMNA. ~~are attached.~~

Thank you in advance for your consideration of these issues. NMNA would welcome the opportunity to answer any questions you may have and to work with you on undertaking legislation.

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