



A Record of SEIU Patient and Community Health Advocacy in California

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Introduction

SEIU's more than 100,000 nurse and healthcare worker members in California have a long and well-respected track record of successful advocacy for their patients, their communities, and their professions. What follows is a small sample of what they have accomplished in recent years.

Nurse to Patient Ratios: Championing the Issue

In 1993, the SEIU Nurse Alliance of California sponsored one of the first pieces of state legislation to enact nurse-to-patient ratios in California, SB 1079 (Watson). SEIU members wrote letters, lobbied legislators, and petitioned the state Department of Health Services (DHS), making the case for ratios. Although Senator Watson's legislation did not pass that year, the Nurse Alliance's work helped plant the seed for the future success of ratios.

When AB 394 (Kuehl) finally put ratios into California law in 1999, it did not set numerical ratios, but instead delegated those determinations to DHS. The Nurse Alliance formed professional practice committees, made up of nurses from each hospital unit and specialty area. Under the leadership of Glenda Canfield, RN, and Beth Capell, Ph.D., the committees engaged in a year-long research and deliberative process to formulate ratio recommendations reflecting nurses' professional experience and specialty organization standards. Committee recommendations were then ratified by assemblies of SEIU membership across the state.

Part of the process included reaching out to and incorporating the input of the independent nurse organizations in California, including the Committee for Recognition of Nursing Achievements (CRONA), the Professional Nurse Association (PNA), and the Registered Nurse Professional Association (RNPA).

The Nurse Alliance's ratios proposal was the first proposal submitted to DHS to implement the ratios. DHS acknowledged the SEIU proposal in its official Statement of Reasons for the ratios:

“SEIU's proposal represents a tremendous mobilization of their membership...[and] is democratic, creative, and instructive. Their proposal has merit and has received careful consideration by the Department.”¹

The SEIU proposal also had resonance far beyond California. Linda Aiken, the author of the first definitive study establishing that better nurse-to-patient ratios saves lives, told Glenda Canfield that she chose the ratio of 1:4 on med-surg units as the baseline for her analysis because of the work SEIU nurses had done to validate that ratio in its DHS submission.²

Nurse to Patient Ratios: Defending Progress

As soon as DHS published its recommendations, the hospital industry launched an all-out fear attack, threatening communities that their hospitals would close because ratios cost too much, and threatening other members of the patient care team with layoffs to cover the cost of

increasing RN staff. **SEIU defended ratios in the community, in legislation, in court, and in the hospital.**

In the community: In July 2003, SEIU founded “Hospital Watch, A Voice for Safe, Quality Patient Care: an alliance of health advocates, consumers, and SEIU health care professional united to improve the safety and quality of patient care in California hospitals.” Other charter members were Community Health Councils, Congress of California Seniors, Maternal Child and Health Access, Asian Pacific American Legal Center, and the Multicultural Area Health Education Center of the Los Angeles Latino Community.

Hospital Watch produced fact sheets for patients, health advocacy, and community groups, including “Safe Staffing Fact Sheet”, “Why Nurse-to-Patients Ratios Matter”, and “10 Things You Can Do to Improve Hospital Patient Care”. The coalition held press conferences and presented testimony on the importance of ER ratios to the Los Angeles County Emergency Medical Services Commission. Hospital Watch also produced Issue Briefs on Mother & Baby Standards of Care and on the impact of unsafe ratios on the one-third of hospital patients who are over 65.³

In legislation: SEIU sponsored the Safe Ratios Enforcement Act (SB 1005), introduced by State Senator Joe Dunn, in 2003. Dunn’s legislation required regular DHS inspections, including unannounced hospital inspections; investigation of urgent complaints within 24 hours; follow-up to ensure hospitals fixed problems; and set deadlines for compliance, with stiff penalties and fines for hospital noncompliance when patients face substantial risk.

In court: One of Governor Arnold Schwarzenegger’s first actions when he won the recall election in fall 2003 was to attempt to illegally weaken and delay the ratios, set to take effect January 1, 2004. SEIU engaged one of the foremost constitutional and administrative law experts in California, Stephen Berzon, Esq., to successfully sue the state to defend the ratios.

In the hospital: In their own hospitals, SEIU nurses and healthcare workers advocated for safe staffing ratios before and after the ratios took effect. Some of their victories included:

- At San Francisco General Hospital (SFGH), nurses negotiated contract provisions to enforce safe staffing practices in 1983. In subsequent contracts, specific numerical nurse to patient ratios for each unit were negotiated. The current contract includes unit by unit ratios for nursing assistants, unit clerks, and other support staff.
- St. John’s Hospital, Oxnard: In 2000, nurses filed a path-breaking 100-page class action administrative complaint against unsafe staffing practices and other poor patient care conditions in numerous hospital departments. DHS cited the hospital, and nurses monitored the plan of correction to ensure better staffing.
- Attorney General investigation of poor patient care and other practices at Southern California hospitals: SEIU successfully petitioned the California Attorney General to impose safe staffing compliance, to be monitored and enforced directly by the AG, as a condition of a for-profit hospital corporation’s purchase of nonprofit facilities. SEIU nurses won these conditions by documenting unsafe staffing practices.

Hospital Staffing Standards for the Entire Healthcare Team

In praising the Nurse Alliance's ratios proposal, DHS noted that "SEIU's fundamental premise is that staffing a hospital is a team effort... [and] focusing on the single profession of nursing undermines the quality of care and distorts the nature of the work that must be done."⁴ The SEIU Nurse Alliance proposal included minimum ratios for some units for Respiratory Therapists, unit secretaries, and other parts of the patient care team.

The Nurse Alliance's concerns were well placed. Preliminary results from a recent survey of nurses jointly conducted by UCSF and SEIU found that "work is being shifted to nurses from other departments, particularly transport, laboratory, and housekeeping." Nurses reported inadequate time for patient education, pain management, assessment, care management, and physical care. These inadequate staffing conditions were reflected in patient safety and quality indicators: eight percent of the shifts surveyed had patient falls, five percent had pressure ulcers, and 14% had treatment delays.⁵

Quality of Care: Hospital Enforcement, Hospital Fines

The California Department of Public Health (CDPH), formerly the Department of Health Services, licenses and certifies hospitals as well as nursing homes and other health facilities. SEIU has led the fight to improve hospital enforcement, by requiring enforcement of California patient protection laws and by creating fines for care that threatens patients.

In 2005, SEIU surveys found that due to its own severe staffing shortage, CDPH had stopped enforcing California-specific patient care requirements and was failing to meet state and federal requirements for timely surveys and complaints and inspections. Even when the state did find serious violations, its enforcement efforts were hampered by the lack of intermediate sanctions, such as fines. That meant that when faced with unsafe care in a hospital, CDPH had only two options: it could issue a citation, the equivalent of a parking ticket, or close down the hospital, the equivalent of nuclear war.

In 2006, SEIU won important changes in enforcement for hospitals and nursing homes. SB1301 and SB1312⁶, both measures authored by Senator Elaine Alquist (D-Santa Clara), required:

- CDPH to complete complaint investigations within 48 hours if there was an imminent threat to patient safety and within 45 days if there was not.
- Enforcement of state requirements such as staffing standards, including ratios, and workplace violence prevention.
- Reporting of "never events", events that should never happen in a hospital such as surgery on the wrong limb or the wrong patient. In the first nine months of reporting, over 1,000 never events were reported in California.

The legislation also created, for the first time in California, \$25,000 fines on acute care hospitals if patients were in immediate jeopardy of injury or death.

In 2008, SEIU fought for and won:

- Fines on hospitals for putting patients in immediate jeopardy: the first violation is now \$50,000, the second \$75,000 and the third \$100,000. A hospital with a clean record for three years reverts to the lowest level, but a hospital with repeat violations stays at \$100,000 per violation until they clean up their act. (SB541 Alquist)⁷
- Protections for patient privacy, making effective existing HIPAA requirements intended to protect patients from privacy violations. (AB211 Jones)⁸
- Public disclosure of hospital-acquired infections as well as training of staff and other efforts to reduce hospital-acquired infections. (SB1058 Alquist, SB158 Florez)⁹

Protecting Nurses' Health and Safety: HIV, Hepatitis and Needlesticks

SEIU's California nurses have a long and successful record of fighting for state and federal laws to protect nurses from bloodborne diseases and needlesticks. Beginning in the early 1980s, SEIU nurses at San Francisco General Hospital volunteered to care for some of the first patients diagnosed with a new disease called AIDS. These nurses helped produce the nation's first HIV educational materials to alert them and their co-workers to take appropriate precautions for their own health and safety, while guarding against unwarranted fear and stigmatization of their patients.

By 1986, recognizing the lack of education and protections from HIV and hepatitis, SEIU California nurses worked with SEIU nurses across the country to petition federal OSHA for a national bloodborne disease standard. Issued in 1991, the final OSHA Bloodborne Pathogens standard – which among other things, required employers to provide employees with free hepatitis B vaccines, has cut the number of hepatitis B cases among nurses and other healthcare workers from 17,000 to 300 per year, according to the CDC.

As safer needles started to become available in the early 1990s, SEIU California nurses demanded them from their employers by filing successful union grievances and CalOSHA complaints. Understanding the need for wider action, by the mid 1990s, SEIU California nurses began lobbying their state legislators. In 1998, legislation was introduced and passed the Legislature. SEIU nurses then undertook a massive mobilization effort to pressure a reluctant Governor to sign the bill; the nation's first safer needle law was became law on September 30, 1998.

Inspired by the actions of SEIU's California nurses, SEIU nurses from across the country succeeded in passing more than 20 more state safer needle laws and created a groundswell of support for a national law. The federal Needlestick Safety and Prevention Act was signed into law on November 6, 2000.¹⁰ Today, needlestick injuries among nurses have been reduced by more than half.

Protecting Nurses' Health and Safety: Safe Patient Handling

12% of nurses who leave nursing do so because of a neck, back or shoulder injury caused by manual patient handling and transfer. To stem this epidemic, SEIU's California nurses have been on the forefront of promoting Safe Patient Handling (SPH) programs that utilize mechanical lifting and transfer devices to safely and securely lift and transfer patients. One of the nation's first SPH programs was instituted by SEIU nurses at SFGH in the 1990s. SEIU nurses across the country have worked to pass SPH laws, first in Washington State in 2006, and now in more than a half dozen states. With the advent of the new administration, SEIU nurses have put national SPH standards on the table.

Protecting Nurses' Health and Safety: Tuberculosis and other Airborne Infectious Diseases

Confronted with a surge in tuberculosis (TB) cases due to public health cutbacks in the late 1980s and early 1990's, SEIU's California nurses petitioned CalOSHA for a TB standard to protect themselves and their patients. After CalOSHA deferred to federal OSHA, SEIU ran a successful campaign for a national standard. Unfortunately, the Bush Administration killed the final TB rule just before it was scheduled to be issued.

Since then, SEIU's California nurses have waged a sustained effort to convince CalOSHA to revisit this matter. They testified before the CalOSHA Standards Board to support the nation's first comprehensive Airborne Transmissible Disease (ATS) standard, which would protect nurses and other healthcare workers from TB, the possible reemergence of SARS, pandemic flu and a host of other airborne infectious agents. The Standards Board will vote by this summer, and a standard will hopefully be in place by the end of 2009.

Advocacy for their Profession (BRN)

The Nurse Alliance has a strong track record of advocacy for the rights of bedside nurses before the California Board of Registered Nursing (BRN).

In the 1990s, SEIU nurses led a campaign to revise the BRN's Advisory statement on Patient Abandonment to halt some hospital managers' practice of threatening RNs with disciplinary action against their license if they objected to unsafe patient assignments. Their petitions, letters, and public testimony won an important revision in 2001. The revised Advisory provides that "refusal to accept an unsafe assignment" is not patient abandonment; furthermore, "A fatigued and/or sleep-deprived RN may have diminished capacity to provide safe effective patient care. Refusal to work additional hours or shifts would not be considered patient abandonment by the BRN." ¹¹

SEIU Nurse Alliance members appointed by the Governor to the BRN have also worked to protect patients and their profession. These nurses held positions on BRN Committees from 2002-2008. As direct practice nurses they were able to bring the bedside nurse perspective to the

decision making process and activities on the Board, including the Enforcement Committee [responsible for disciplinary action against an RN's license] decisions and recommendations.

Other examples of SEIU nurses' leadership in protecting standards for their profession include de-licensing unsafe nursing education institutions and maintaining the RN scope of practice. Thus a "become an RN by mail" school, with a substandard curriculum that did not include clinical practice, was outlawed in California. In addition, when the state Department of Education tried to assign school secretaries and other unlicensed personnel to give insulin and other life-saving drugs to students, the Board upheld RN assessment and administration of medicines, as required by the Nursing Practice Act.¹²

Holding Hospital Systems Accountable to their Communities

In the 1990s, for-profit and nonprofit hospital systems rapidly bought up California community hospitals. All too often, these systems treated their acquisitions as "corporate assets", breaking the social compact that had long existed between hospital and community.

Beginning in 1997, SEIU sponsored a series of legislative measures to assure that almost all hospital mergers and sales in the state would be subject to review and approval by the Attorney General.

To ensure that the community's voice would count, SEIU joined in founding the Coalition for Quality Care. Together with Consumers Union, Community Health Councils, AGENDA, the Women's Law Center and others, SEIU nurses have worked to hold hospitals accountable to their charitable mission of providing safe, quality care, responsive to the needs of their communities. For example:

- In 2000, the Coalition successfully petitioned the California Attorney General to prevent a nonprofit system which had bought Long Beach Memorial Hospital two years earlier from closing the hospital and moving its assets to other system hospitals. The coalition's efforts garnered widespread support for the principle that nonprofit community hospital obligations to their community were not severed by chain ownership.
- In 2001-2003, the Coalition won Attorney General conditions to hold hospitals that purchase nonprofit hospitals accountable to safe staffing practices and community obligations.
- In 2002-2003, the Coalition successfully petitioned the Attorney General to impose conditions defending community and patient rights on the sale of nonprofit Norris Cancer Hospital at the University of Southern California. SEIU retained one of the leading charitable trust lawyers in California to prepare the Coalition's legal case.
- At Pomona Valley Hospital Medical Center, SEIU nurses joined with neighborhood advocates, religious and community leaders, teachers, elected officials and other healthcare professionals to conduct a public forum for representatives of the state Attorney General's office to hear testimony about the patient care conditions, access for the Latino community, and other issues related to the hospital's compliance with its social contract with the community.

Access to Affordable, Quality Care for All

SEIU was a founding member of Health Access of California. The SEIU State Council has long guided policy and politics in the fight for universal healthcare in the state:

- 1994: SEIU was the largest single contributor in support of Prop. 186, the single payer ballot measure, contributing millions of dollars. Prop. 186 failed with only 27% of voters in support.
- 1996: SEIU sponsored Prop. 214, the HMO Patient Bill of Rights, which won 42% of the vote.
- 2003: SEIU led the successful fight to pass SB2 (Burton), healthcare reform legislation which would have required employers who do not provide coverage to pay 80% of the premium for full-time workers.
- 2004: SEIU led the ballot campaign to defend SB2, the employer mandate, from repeal by Governor Schwarzenegger, the Chamber of Commerce and the Restaurant Association. It failed narrowly, winning 49.2% of the vote.
- 2006-2008: SEIU again led the legislative fight to win comprehensive state health reform that would have covered 70% of the uninsured by requiring employers to pay for health benefits for workers, expanding Medi-Cal and Healthy Families to give coverage to low-income Californians, and requiring insurance companies to sell insurance to anyone who wants it, regardless of pre-existing conditions. The measure failed in Senate Health Committee.
- 2006: SEIU was a key part of the coalition that created Healthy San Francisco, the City's Universal Access program, with an employer obligation and a public plan using the county hospital and clinics as a network for the uninsured.

Save and Strengthen County Safety Net Hospitals

County hospitals make up just 6% of all hospitals in California, yet deliver close to 50% of the care to our State's uninsured. Since the 1990s SEIU has:

- Helped secure additional federal funding for county hospitals statewide, 1995 – 2005. In Los Angeles County, SEIU was instrumental in securing \$900 million over five years for the county hospital, including more than \$40 million in training and upgrade funds for county healthcare workers. Among the program's successes: training 500 new RNs.
- Won local revenue for county hospitals:
 - Los Angeles: SEIU spearheaded a grassroots and broad-based coalition campaign to pass landmark Measure B, bringing \$168 million a year to regional trauma and ER centers.

- Alameda County: In concert with other progressive community groups, SEIU helped pass Measure A in 2003, a local half-cent local sales tax to keep County Medical Center open.
- Rebuilt county hospitals:
 - In Santa Clara County, San Francisco County, and elsewhere, SEIU nurses and healthcare workers have waged campaigns to rebuild the county hospital.
 - In November 2008, SEIU members were in the forefront of the campaign for Proposition A to finance the rebuilding of SFGH, which San Francisco voters overwhelmingly approved.

Conclusion

This report is a small sample of the achievements of SEIU nurses and healthcare workers to improve patient care, community healthcare, and their profession. The real heroes are the thousands of bedside nurses who, in every hospital, on every shift, uphold their professional standards to put their patients first.

¹ California Department of Health Services, Minimum Licensed Nurse to Patient Ratios in General Acute Care Hospitals (R-37-01), September 2002, p. 9.

² Communication from Glenda Canfield. Linda H. Aiken, Ph.D., RN, Sean P. Clarke, Ph.D., RN, et al. "Hospital Nurse Staffing and Patient Mortality, Nurse Burnout and Job Dissatisfaction," *Journal of the American Medical Association*, October 23-30, 2002.

³ "Hospital Watch: Mother & Baby Standards of Care," October 2003; "Time to Care: How California's Safe Hospital Staffing Law Helps Ensure Better Care for Los Angeles County Seniors," December 2003.

⁴ DHS, op. cit, p. 8.

⁵ Jean Seago, "California Staffing Ratios, Implications for Nurses and Patients," powerpoint 3-30-08. Hospital layoffs of the certified nursing assistants who bathe, reposition, and ambulate patients may also account for a recent study by the California Health Care Foundation finding that pressure ulcers and deep vein thrombosis (DVT) increased in CA hospitals between 2004 and 2006. Joanne Spetz, et al, "Assessing the Impact of California's Nurse Staffing Ratios and Hospitals and Patient Care," February 2009, p. 8.

⁶ Chapters 647 and 895, statutes of 2006

⁷ Chapter 605, statute of 2008

⁸ Chapter 602, statute of 2008

⁹ Chapters 296 and 294, statutes of 2008

¹⁰ <http://www.osha.gov/needlesticks/needlefaq.html>

¹¹ California Board of Registered Nursing Advisory Statement, "Abandonment of Patients," rev. 11/01.

¹² Interview with Grace Corse and Carmen Morales, February 2009.