TO: The Health Policy Commission's Quality Improvement and Patient Protection Committee

FROM: Donna Kelly-Williams, RN and President, Massachusetts Nurses Association

DATE: October 29, 2014

RE: Intensive Care Unit Staffing

My name is Donna Kelly-Williams and I am President of the Massachusetts Nurses Association/National Nurses United, which represents more than 23,000 registered nurses and health care professionals in the Commonwealth, including the ICU nurses in more than 70 percent of the state's acute care hospitals. First, I want to thank the Health Policy Commission for holding this critically important patient safety initiative listening session for nurses and other stakeholders. We have great expectations of the Health Policy Commission, having worked with you in the development of the definition of emergency and other issues related to the law to ban mandatory overtime. In drafting this new law on safe patient limits in the ICU, we were insistent that Commission's expertise and leadership would be pivotal to the development of regulations regarding the implementation of, and compliance.

In preparing for this listening session, we have actively engaged with our membership throughout the Commonwealth, meeting with and surveying thousands of nurses from inside and outside the ICU for their input on the acuity criteria needed to ensure appropriate care and monitoring of ICU patients. Karen Higgins, Co-President of National Nurses United, and a practicing ICU nurse at Boston Medical Center for more than 30 years, has submitted the MNA's official testimony outlining the specific acuity criteria that we believe must be included in an effective acuity tool. In addition to Karen, nurses from ICU's around the state have submitted testimony to share their views on the acuity criteria and what is needed to safely care for their patients. Professor Judith Shindul-Rothschild of Boston College, has submitted testimony regarding the specific quality indicators that should be measured in connection with this law. The MNA strongly supports these recommendations. Additionally, MNA/NNU Executive Director Julie Pinkham, has provided our recommendations for regulations governing compliance with the law.

Our organization was the driving force behind the creation of this law. Julie Pinkham and I both participated in all the discussions and negotiations surrounding the drafting of this law, which was also approved and endorsed by the Massachusetts Hospital Association. The language of the law was carefully crafted and every word in the law, as well as words that were specifically not included in the law, are important as they reflect the intent of the Legislature in providing this patient safety protection. In my testimony this morning, I wanted to take a few moments to clarify exactly what the law means, as we have since learned that many hospital administrators and managers clearly have misinterpreted the law, which has led to a failure of some hospitals to follow the law, thus endangering the patients under their care.

Underpinning all of these discussions is the clear fact that the law establishes a one-to-one nurse to patient assignment as the baseline standard of care for ALL patients in our hospital ICUs. The rule of this law is that an ICU patient should be singled with a nurse and can only be part of a two-patient assignment if and when the assessment of the nurses on the unit and the acuity tool determines that the patients are stable enough to be doubled. We were careful in crafting this law to ensure that the decision to double a patient was based on the needs of the patient as outlined by the criteria established for use in the acuity tool, and based on the judgment of the staff nurses providing that care. The law is very clear that managers and administrators have a very limited and specific role in determining if and when a nurse can take a second patient assignment, and that role comes into play only in those instances where the staff nurses on the unit cannot agree on the proper patient assignments. At that point the nurse managers will help to resolve any dispute. It is not the role of the manager to overturn the assessment of the staff nurses. We also feel it is important to point out that the law is now in effect and has been since September 28. We say this as some hospitals have been telling ICU nurses that they do not need to follow the law until the acuity tool is finalized. In conversations with your executive director, we have clarified that the law is indeed in effect. Hospitals must now be meeting the one-to-one standard; and until the acuity tool is developed it is our contention that the staff nurses on the unit, as stipulated in the law, will make the assessment of when a patient is stable enough to allow the assignment of a second patient, and as stated earlier, if there is disagreement a manager or designee will then be involved to resolve the dispute.

We also wanted to take a moment to state what is purposefully **not** mentioned in the law. The law does not allow for a 1:1 patient assignment to suddenly become a 1:2 patient assignment because the nurse will be on a legal meal break. Nor does the law provide exceptions for a nurse with a one-patient assignment to take a second, third or fourth patient because a nurse on the unit has to travel with one of her patients to an MRI or another procedure.

The law also does not provide exceptions for financial concerns. A hospital whose surplus, profit or margins are less favorable than their competitor is not allowed to avoid compliance with the law. That is a matter to resolve in a different forum. This law is for the patients – specifically to create a safe standard without exception.

We are here to assist you in doing the important work of ensuring that nurses who care for these critically ill patients are working with acuity criteria that supports the staff nurse's assessment of what constitutes a safe patient assignment. We also are here to help you determine what rules and procedures need to be put in place to ensure hospitals are complying with this law to ensure patient safety. And finally, we are here today to help you in identifying appropriate quality indicators that can be measured to determine the success of this law in protecting our patients.

Thank you.