

**SEIU Healthcare PA
1500 N. 2nd St
Harrisburg, PA 17102**

**Testimony of SEIU Healthcare PA
In SUPPORT of Pennsylvania House Bill 1082, the Workplace Safety Regulation for Public Employees
Before the House Labor & Industry Committee, September 14th, 2016**

I. Introduction

SEIU Healthcare PA is the largest union of nurses and healthcare workers in the Commonwealth, representing approximately 45,000 frontline caregivers and support staff in acute care hospitals; long term care facilities; home and community based services; and publicly maintained healthcare facilities. SEIU Healthcare Pennsylvania is an affiliate of SEIU, North America's largest healthcare union, representing 1.2 million nurses and healthcare workers across the United States, Canada, and Puerto Rico.

Approximately 2,000 registered nurses and other members of SEIU Healthcare PA work in Commonwealth or municipal employment, providing care to Pennsylvanians in state mental hospitals, state mental centers, state correctional institutions, state veterans' homes, and county-operated long term care facilities. Within the Commonwealth, our members can be found working for the Department of Corrections, the Department of Human Services, the Department of Health, the Department of Military and Veterans Affairs, and the Department of Labor and Industry.

While the majority of SEIU Healthcare Pennsylvania members work in the private sector and receive workplace safety protections under the federal Occupational Safety and Health Act, these 2,000 public sector employees work with limited health and safety protections. Healthcare workers experience one of the highest rates of injury and illness in the United States. For example, the Occupational Safety and Health Administration reports that more workers are injured in the healthcare and social assistance industry than in any other. In 2010, 653,900 injury and illness cases were reported in the healthcare industry. Many Commonwealth nurses work in the most difficult healthcare environments imaginable, and go to work on a daily basis fearful of being assaulted by an inmate or out-of-control patient. In county-based long term care facilities, our members suffer the same kind of occupational injuries that plague private sector nursing home workers: long-term back and knee injuries that stem from a lack of adequate lifting equipment, and acute harms suffered during emergency patient interventions.

The vast majority of private sector workers who believe their working conditions are unsafe have the ability to file a complaint with the Occupational Safety and Health Administration and have some form of action taken, even if only an investigation. Federal employees receive similar protections under Executive Order 12196, and twenty-six states have expanded the OSH protections to state and local employees. Pennsylvania's state and local employees, like every other American worker, have a right to a safe, healthy workplace where basic industry safety standards can be enforced. For this

reason, SEIU Healthcare Pennsylvania urges the committee to support the passage of Pennsylvania House Bill 1082.

II. Benefits to Employers

Having represented healthcare workers for over forty years, SEIU Healthcare PA is very familiar with the costs associated with workplace injuries in the healthcare industry. When an experienced healthcare worker becomes injured on the job, the whole facility suffers from the loss of their knowledge and productivity. Because many facilities operate with mandated staffing minimums, employers are often required to backfill for injured employees by employing agency staff until the injured employee has recovered. Agency staff costs much more than permanent employees do. Agency workers require a similar training investment to become accustomed to facility operations, but often leave before said training investment can be recouped.

When facilities replace a long-term-injured worker by hiring new permanent staff, they still face significant costs. For instance, the Robert Wood Johnson foundation has estimated that the cost of replacing a registered nurse averages between \$22,000 and \$64,000. For registered nurses in the Commonwealth, long term injuries have even greater consequences. Many of these nurses are covered under Pennsylvania Act 534/632, which guarantee injured employees full salary, benefit contributions, and pension contributions for the duration of their injury. Additionally, injured employees receiving Act 534/632 benefits continue to occupy a complement position in their facility, preventing the facility from effectively replacing them by hiring additional staff. Because there is no time limit for these employees to return to work, it is not unheard of for the Commonwealth to pay 534/632 benefits to injured workers for ten years or more.

Besides these concerns, employers suffer other costs when workers are injured on the job. These are seen in the form of rising workers' compensation costs, legal liabilities, increased turnover, and damaged reputations that hinder recruitment and hurt business. SEIU Healthcare PA believes that many of these costs can be prevented through strong workplace health and safety initiatives. Such initiatives can only be successful in the long run with the support of strong legislative protections, however – this is why HB 1082 makes sense for public sector employers.

III. Benefits to Workers

Every family and community suffers when one of its members is unable to earn a living. All too often, such occurrences are preventable workplace injuries that remove able-bodied men and women from the workforce for weeks, months, or even years. The associated loss of earnings can be catastrophic for working class Pennsylvanians who already struggle to meet mortgage payments and put food on the table. Public sector employees routinely perform duties that benefit all Pennsylvanians – SEIU Healthcare PA does not believe that any of these employees should suffer a life-changing workplace injury that could have been prevented by strong workplace safety legislation such as HB 1082.

IV. Key Elements of HB 1082

SEIU Healthcare PA believes that HB 1082 provides effective health and safety coverage for the following reasons:

- By conforming to the Occupational Safety and Health Act of 1970 and adopting its safety and standards, HB 1082 adopts a mature policy approach that is accepted across the country as foundational employment law:
 - HB 1082 would require state and local facilities to furnish employment free from recognized hazards that cause or are likely to cause death or serious physical harm;
 - HB 1082 would require state and local facilities to provide reasonable and adequate protection to the lives, safety, and health of their employees;
 - HB 1082 would require employers to identify, upon request, substances employees come into contact with that have been identified in occupational safety and health standards as being toxic or hazardous. In the healthcare industry, such hazardous substances include: blood-borne pathogens and other biological agents; anesthetic, chemotherapeutic, and radioactive waste; numerous caustic sterilizers capable of causing chemical burns and respiratory distress; and other exotic chemical compounds found in the myriad healthcare laboratory settings.
- In the event that a public employee believes his or her employer is failing to meet the required safety and health standards, they will have recourse to the Department of Labor. Strong enforcement powers are embedded into HB 1082, allowing for the Secretary of Labor or designated agent to inspect any covered workplace, with or without notice, to determine if safety and health violations are occurring. Should such access be denied, enforcement may be obtained through the Commonwealth Court system.
- To assist facilities in complying with HB 1082, grant money provided under Section 20 of HB 1082 would allow organizations to independently and proactively conduct their own safety and health trainings to meet required safety and health standards.

V. Areas of Improvement

While SEIU Healthcare PA strongly urges the adoption of the current legislation, we do believe there are areas in which HB 1082 could be improved:

- The Pennsylvania Occupational Safety and Health Review Board, proposed under Section 9 of HB 1082, does not designate specific seats for labor, employer stakeholders, and for public occupational health and safety expertise that may be of value. Our review of best practices across the country shows that ensuring board seats for key stakeholders strengthens the expertise and decision-making ability of such boards.
- While in many ways HB 1082 mirrors the federal OSH Act, its penalties under Section 17 are significantly lower. For instance, if a facility fails to correct a cited violation, the penalty under HB 1082 may not exceed \$1,000/day. Under the federal Act, this penalty can be as high as \$12,471/day. An employer covered under HB 1082 who willfully and repeatedly violates the Act can be fined up to \$10,000/violation; under the federal Act, such an employer could be fined as

much as \$124,709/violation. We believe that strong incentives must exist for employers to comply with the requirements of HB 1082, and question the disparity between the penalties available under HB 1082 and the federal OSH Act. In some cases, public employers have had success replacing such fines with aid that can be used by facilities to remedy unsafe conditions. We would encourage legislators to think creatively about the means used to incentivize compliance with HB 1082.

VI. Conclusion

To summarize, as the largest representative of healthcare workers in Pennsylvania and the representative of more than 2,000 public employees affected by this legislation, SEIU Healthcare Pennsylvania strongly urges this committee to support the passage of HB 1082, the Workplace Safety Regulation for Public Employees.

By mirroring the federal Occupational Safety and Health Act, HB 1082 provides public sector workers in Pennsylvania with the same safety and health protections and remedies that are available to the vast majority of American workers. We believe that the adoption of HB 1082 will strengthen public sector employers by eliminating many of the unnecessary costs associated with workplace injury. If this bill is federally approved as a state plan for public employees, additional money can be saved by accessing federal funds that could cover up to 50% of the program cost.

In addition to making public employers more efficient and more desirable places to work, HB 1082 provides critical protections to some of the most important workers in our Commonwealth. Every Pennsylvanian who leaves for work in the morning should expect to return home at night in good health. Our Commonwealth has a duty to protect the public servants that leave home every day to help keep Pennsylvania running. It is past time to adopt this legislation.

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