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# *Committee Meeting*

of

## SENATE LEGISLATIVE OVERSIGHT COMMITTEE

*“The Committee will receive testimony from invited guests regarding issues with the New Jersey Board of Nursing, including staffing, oversight, and a licensing backlog”*

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**LOCATION:** Committee Room 4  
State House Annex  
Trenton, New Jersey

**DATE:** October 5, 2017  
9:30 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Senator Robert M. Gordon, Chair  
Senator Loretta Weinberg, Vice Chair  
Senator Thomas H. Kean Jr.  
Senator Joseph M. Kyrillos Jr.  
Assemblywoman Nancy F. Muñoz



### **ALSO PRESENT:**

Sarah A. Fletcher  
*Office of Legislative Services*  
*Committee Aide*

Mark J. Magyar  
*Senate Majority*  
*Committee Aide*

Christopher Emigholz  
*Senate Republican*  
*Committee Aide*

*Meeting Recorded and Transcribed by*  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ROBERT M. GORDON  
Chairman

LORETTA WEINBERG  
Vice-Chair

M. TERESA RUIZ  
PAUL A. SARLO  
THOMAS H. KEAN, JR.  
JOSEPH M. KYRILLOS, JR.

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## New Jersey State Legislature

SENATE LEGISLATIVE OVERSIGHT COMMITTEE  
STATE HOUSE ANNEX  
PO BOX 068  
TRENTON NJ 08625-0068

### COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE LEGISLATIVE OVERSIGHT COMMITTEE

FROM: SENATOR ROBERT M. GORDON, CHAIRMAN

SUBJECT: COMMITTEE MEETING - OCTOBER 5, 2017

*The public may address comments and questions to Sarah A. Fletcher, Committee Aide, or make bill status and scheduling inquiries to Shirley Link, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideSLO@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Senate Legislative Oversight Committee will meet on Thursday, October 5, 2017 at 9:30 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.**

The committee will receive testimony from invited guests regarding issues with the New Jersey Board of Nursing, including staffing, oversight, and a licensing backlog.

Issued 9/22/17

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**SENATOR ROBERT M. GORDON (Chair):** Good morning, everyone, and welcome to this meeting of the Senate Legislative Oversight Committee.

I apologize for the delay; but then again, this is Trenton.  
(laughter)

Would you all please rise and join me in the Pledge of Allegiance? (all recite pledge)

Thank you.

We are joined today by someone who is not a member of the Committee, Assemblywoman Nancy Muñoz, who is a registered nurse and I know has a lot of expertise in the subject we're addressing today. And so I wanted to take advantage of that, and I invited her to join us today.

May I have a roll call, please?

MS. FLETCHER (Committee Aide): Senator Gordon.

SENATOR GORDON: Here.

MS. FLETCHER: Senator Weinberg.

**SENATOR LORETTA WEINBERG (Vice Chair):** Here.

MS. FLETCHER: Senator Kean.

SENATOR KEAN: Here.

MS. FLETCHER: Senator Kyrillos.

SENATOR KYRILLOS: Yes.

MS. FLETCHER: Assemblywoman Muñoz.

ASSEMBLYWOMAN MUÑOZ: Here.

SENATOR GORDON: Thank you.

I have some very brief comments to make at the outset.

Two-and-a-half months ago, Dr. Patricia Murphy, President of the New Jersey Board of Nursing, and her fellow Board members, wrote an unusual letter to legislators. The letter complained of a persistent staffing and management crisis that they said had led to the resignation of the Board's Executive Director, created a backlog of more than 4,000 nursing licensure applications, and threatened the public health.

The Board members complained of long-standing vacancies on the Board, and of the reduction of nurses on the Board staff capable of conducting investigations that are crucial to patient safety.

Senator Weinberg and I held a press conference that was remarkable for the unanimity of the complaints from leading nurses' unions, and organizations, and nursing schools. These complaints were echoed in the phone calls that poured into our offices from nursing graduates, complaining about delays and the processing of their applications.

Consumer Affairs Director Steve Lee responded to those complaints with a letter denying that there was a licensure backlog or a staffing crisis.

This hearing is an effort to get to the truth. We will hear this morning from Dr. Murphy and former Board of Nursing Public Member Avery Hart; they were not *former* Board members until last Friday, when Governor Christie replaced them on the Board on which they had served for 12 years and 10 years, respectively, possibly because they had agreed to testify.

Also appearing with them is Dr. Dorothy Smith Carolina, who resigned as Executive Director of the Board of Nursing in July after complaining of staff shortages.

We will also hear from panels of nursing union and association leaders, nurse attorneys, nursing schools, the New Jersey Hospital Association, the Homecare and Hospice Association, school nurses, and nursing students.

Our plan is as follows: We will break at about 11:45 for a Senate voting session, then resume about 1:30 again, Trenton time.

Our first witness this afternoon will be Acting Consumer Affairs Director, Sharon Joyce.

Before we turn to her, I'd like to ask Senator Weinberg and Senator Kean whether they have any comments.

Senator Weinberg.

SENATOR WEINBERG: Thank you, Mr. Chairman.

Welcome, Dr. Murphy.

I guess Sharon Joyce is going to testify --

SENATOR GORDON: Well, actually, we're going to--

MR. MAGYAR (Committee Aide): This afternoon.

SENATOR GORDON: This afternoon.

SENATOR WEINBERG: Okay.

SENATOR GORDON: We're also going to hear-- Our first panel, with Dr. Murphy, Dr. Hart, and Dr. Carolina--

SENATOR WEINBERG: Okay.

SENATOR GORDON: --in the interest of--

SENATOR WEINBERG: Just a couple of remarks.

Better late than never. I am glad that the Governor has stepped forward to appoint some new members of the Board of Nursing so that they will be up to a full complement. I don't know the people; but from what I read about them, they all seem to have the appropriate qualifications.

But having said that, to have replaced two people who have institutional knowledge -- the only two people who will have institutional knowledge about the Board of Nursing, which is so important -- was, at best, inappropriate. And I am hoping that that is something we will, see in the not-too-distant future, somehow straightened out.

So a couple of words to Dr. Avery Hart and Dr. Patricia Murphy; particularly Avery, whom I have known for a number of years. I appreciate the two of you stepping forth and shining some light on what appeared to be a simmering and long-standing problem. And I think, from what I've heard from those who are going to testify, that this hearing might end up with, "Who are you going to believe: me, or your very own eyes?"

So the two of you got rewarded by being thrown off the Board of Nursing. But I'm sure you are both confident that what you've done is correct and right under these situations; and I am hoping that, at some point in the future, we're going to see you back on the Board of Nursing

Thank you very much.

SENATOR GORDON: Thank you.

Senator Kean.

SENATOR KEAN: Thank you, Mr. Chairman. Thank you for calling this hearing

I also want to thank you for making sure that it is a bicameral hearing.

Assemblywoman Muñoz is my seat-mate in the State Legislature, and she is the only certified registered nurse in the entirety of the Legislature. I will give her my opening comments to allow for her expertise, if I may.

SENATOR GORDON: Okay, sure.

Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: Thank you, Senator Kean; and thank you, Senator Gordon, for inviting me today.

As Senator Kean said, I'm a licensed registered nurse with a master's degree in Clinical Nurse Specialist. I have been in the Legislature for the last eight-and-a-half-years and have probably worked with every single person who is out in the audience on nursing issues.

I have certainly been -- probably, I would think you would all agree -- the strongest advocate for the profession of nursing in the state. And we have many issues that we need to address, going forward. But today, as we look at this issue, what my goal is -- and I think all of our goals -- is to get the facts and to know, indeed, what the numbers are. What are the numbers of the staffing that you need in order to run that Board of Nursing effectively? We know that you have 200,000 licensed personnel under your Board, which is the largest Board in the state; the second one is the Board of Medical Examiners with 48,000, so your number surpasses them by 152,000, approximately.

So we need to get numbers, we need to get facts, we need to see how we can make this better. The goal is not to make it into a he-said, she-said, as the Senator said; but rather, let's look and see if we can get some solutions. What is an adequate staffing for the Board of Nursing in order to

process these numbers? What's an adequate number of registered nurses who would fill those staff positions? What is an adequate budget to do this? Because, again, this is about patient safety; it's about people getting jobs and being able to work.

I have personal experience in this. My college roommate -- who was trying to get a job at University Hospital in Newark -- almost didn't get her license if I hadn't intervened. It's the delays that-- We have to find out what are the reasons for the delays. Some of them -- and we're going to hear from the nurse lawyers -- is because of our processing and how we have to process things. So again, this is for facts that we can come -- to get the information, to collect the information, and then, together, get solutions. Because the most trusted profession in the nation, and certainly in the state, is the profession of nursing. And we want to make sure that it is done right and that we are able to issue these licenses in a timely manner and in a safe manner.

And also, as we know, part of the process of the Board of Nursing is to deal with the disciplinary actions; and that number is large. And when you tell the people about the numbers, they're always amazed at over 200 cases per month. Some of them are as simple as you didn't complete your continuing education units; others are much more severe, including drug and alcohol issues, etc., etc.

So let's get the facts today; let's present them in a professional manner, which I know all the nurses are. And as seen from there, where we can make some suggestions as to how we can fix this problem.

Thank you very much.

SENATOR GORDON: Thank you very much.

Senator Kyrillos, do you have any comments to make?

SENATOR KYRILLOS: No, I'm going to listen to everything. This is the first I'm hearing about this dilemma. I appreciate you putting a spotlight on it; and I think it's wise to have Assemblywoman Muñoz here to offer her observations, and comments, and her advice.

SENATOR GORDON: Okay.

Dr. Murphy.

**PATRICIA MURPHY, Ph.D.:** Can you hear me?

SENATOR GORDON: Yes.

UNIDENTIFIED MEMBERS OF THE AUDIENCE: No.

DR. MURPHY: Now?

UNIDENTIFIED MEMBERS OF THE AUDIENCE: Yes.

DR. MURPHY: Okay; I'll get closer (referring to PA microphone).

Senators, ladies and gentlemen, good morning and thank you so much for calling attention to this very serious threat to the citizens of New Jersey.

I am Dr. Pat Murphy; I served as a member of the New Jersey Board of Nursing -- which I hope you all realize is a volunteer position -- for 10 years; and 6 of those years as its President. When invited to testify at this hearing, I was *still* the President.

I sit here today, having been abruptly removed from the Board by the Governor's Office six days ago. My second term should have ended in December -- this coming December. And I planned to use those months -- I was going to finish my term in December -- I was going to use those months to help with transition to the next President, to orient new staff and

new Board members. But the Governor's Office gave me no reason for my removal, and so I am left with no alternative explanation except that they intended retribution towards me as a warning to other public servants -- that if you draw attention to the Administration's alleged shortcomings, it's grounds for banishment.

But this hearing is not about me, it is not about Avery, and it's not even about the Division of Consumer Affairs. It's about the people of New Jersey and the crisis at the Board of Nursing.

So let me just quickly tell you what the numbers are.

Assemblywoman Muñoz, the number, now, is 220,000. We had graduates in June. We oversee 143,500 Registered Nurses, Licensed Practical Nurses, and Advance Practice Nurses. We oversee more than 80,000 Certified Homemaker-Home Health Aides. Those are the people who we certify and send into the homes of anyone who needs home health. They are not the people who work in hospitals as Nursing Assistants -- they come under the Department of Health.

The other thing that consumes enormous amounts of our time is we oversee 84 educational settings where nurses are educated -- colleges, diploma schools, associate degree programs -- and all the paraprofessional schools. Wherever Homemaker-Home Health Aides are educated, we oversee them.

The New Jersey Board has a chronic lack of professional staff, now rising to a level that threatens the Board's responsibility to protect the citizens of New Jersey. At present, there is one professional nurse on the staff. She's the Acting Executive Director, and she is doing three jobs. She does Disciplines; she does the Alternative to Discipline Program, which is

our *RAMP* program; and she is now the Acting Executive Director. And I can tell you for a fact, she's exhausted.

The Division has not filled any of the positions that were vacated by professionals with professionals, and that seems to be the core of our problem. They send temporary workers and what they call *government reps*. These government reps come -- and Dr. Carolina will talk more about that -- they come to help, but they don't report to the Executive Director. So what we have is an Executive Director who has lots and lots of responsibilities, and no authority over some of the people who are working at the Board.

So let me try and acknowledge some of the needs.

High on the list of urgent needs is a fulltime Director of Education to oversee the 84 programs. Some of these programs should have been closed two years ago. We do not have the staff to monitor them, so they remain open, and they're still accepting students.

Oversight of the educational programs in New Jersey is an incredibly important function of the Board, and the one way that we can protect the citizens of New Jersey.

Number two, the Board of Nursing acts on approximately 250 disciplines each month. I have had the honor and privilege of being the President of an incredibly hardworking Board. Until last Friday, there were only 7 members on that Board, and there should be 15. And I wrote to the Governor at least three different times over the year, "Please, we need help. We can't run a Board meeting if we don't have a quorum." I got no response at all. Those vacancies have been there for three years. And all of

a sudden, when this hearing is coming, the appointments come down last Friday.

So there is urgent need for a fulltime professional to manage, and investigate, and analyze the discipline cases that we see. Just for an example: We don't meet in August; that's the only month that we don't meet. And in September, we did 518 discipline cases. It took all day; it would have never happened if this incredibly hardworking staff didn't spend three days at home reading over every one of the cases so they could come to the Board to make decisions. But there is an urgent need for a fulltime professional to help coordinate this.

And then since I and other members of the Board went public with this crisis, there have been many temporary fixes. Since July, the Division has really tried to fix this temporarily so that they can come here today and say, "The problem is solved." The Division has pulled temporary help from their usual jobs -- not Board of Nursing employees -- to license people. So today I think you will hear that the licenses are caught up. This may help with the optics; but after today, this crisis will continue. The Board needs fulltime regular staff in the Licensing Department. These people need to report to the Executive Director. It is impossible for an Executive to have all the responsibility, and no authority, and only temporary staff.

So this situation -- long and chronic and, now, critical -- has yielded only marginally to the voices of Board members. We have tried. Only the aroused interest of you guys, the legislators, seemed to move the needle. If you can help, a basic State function may be rescued.

So here's what we need, in bullet form.

We need an Executive Director empowered to do the job. That Executive Director needs a Deputy to share that role.

We need fulltime professionals in Discipline and Education, and definitely we need staff positions filled with qualified persons who are accountable to the Executive Director.

These are all systemic fixes, and not Band-Aids.

And none of this is special interest pleading. I have no skin in this game; I really just care about my profession deeply, because they gave me so much.

The responsibility of the Board of Nursing is to protect the people of New Jersey. This is why this crisis should claim your attention and that of other legislators.

Thank you very much.

SENATOR GORDON: Thank you very much, Dr. Murphy.

Dr. Hart, do you want to go next? And then we'll ask questions of all three of you, I'm sure.

**AVERY HART, Ph.D.** Hello.

DR. MURPHY: No, the red light has to go on; there.

DR. HART: Okay.

Hello, I am Dr. Avery Hart. I was appointed to the Board in 2007 as a Public Member; I am not a nurse. Though I have a background in Clinical Social Work and come from that health-related field, I am not a nurse in any way.

I was there to be the non-nurse on the Board; there should have been three of me, because we had three positions, originally. But when I was appointed the other two appointees did not show up after a few

months. Because the work on the Board, as Dr. Murphy has said -- the work is a lot; there is no compensation, essentially, for it, except the feeling that you are -- and the knowledge that you're helping to protect the citizens of the State of New Jersey. So that winds up being a very large award.

I was very happy to be a member of the Board. I was blown away by the dedication of my fellow Board members. At that time, there were eight professional staff members. When I say *professional staff members*, I mean that there were nurses -- professional nurses having fulltime staff to run the many functions of our Board. There is now, as Dr. Murphy has said, one. It was like being in -- the story of the frog that was put in the pot; the water gets hotter, it gets hotter. And by coming forward, we jumped out of that pot in the nick of time. But really, it's a situation that has developed over a long time, and I'm happy that we did come forward finally.

It was kind of shocking to me that, after we came forward, the head of Consumer Affairs, Mr. Lee, wrote a letter essentially telling the public that we were not being accurate. And there were so many misrepresentations in that letter. For instance, one of the things that we have often begged for around licensure time with so little staff is, at least, can we have some overtime for our overworked employees to get the licenses out. And we were denied it, consistently, until we came forward with the letter. Then suddenly, overtime was allowed; and in his letter, he says, "Well, they're complaining that there's no overtime, but we do allow overtime," without mentioning that that overtime only came days before, and we had gone without it for, literally, years.

So that was distressing to me to read a letter saying that he didn't feel there was a need for professional staff on the Board. That you don't need to have a background in health and nursing to deal with the issues that come up before the Board does not make sense to me. I think it's important for the people of the State of New Jersey that we have a professional staff -- not temporary workers, not government representatives -- but professional nurses and people from the health professions who work fulltime for the Board of Nursing.

I have not been informed that I am no longer on the Board, except by reading a letter that was forwarded to me having to do with this hearing. I have not heard from the State of New Jersey officially that I am no longer on the Board. But you know, that decision itself seems to me very suspect, especially in the case of Dr. Murphy. Because her knowledge of the institution, of our Board -- it's so important to pass on to the new members of the Board. Apparently, there will be no opportunity for her or for me to work with, or even speak to, the new Public Members, which I think that's a failing on the part of how things were done.

That is my basic statement. I have seen the Board have fewer and fewer resources along the years, until it came to this crisis. We've talked about going forward in the past, and tried valiantly to solve the problem within the institution. But our pleas went on deaf ears. So now we're here, and I'm very grateful to those of you who arranged this meeting so that we can protect the people of New Jersey,

SENATOR GORDON: Thank you, Dr. Hart.

And I actually misspoke; I think we're going to ask -- we're going to defer-- We're not going to hear from Dr. Carolina just yet. I think

we have some questions that are probably more appropriate for Dr. Murphy and Dr. Hart first, and then we'll turn to Dr. Carolina.

You know, I'm listening to your testimony. I've spent much of my career as a management consultant, and I am trying to come at this, these issues, with the mindset I would any kind of organizational dysfunction that I see. And I think we've already heard some important things about flaws in the organization design, and structure, and reporting relationships, and authority. And I suspect that it's just not a matter of resources, but just the design of the business -- what MBAs would call a *business process*, the various activities that you have to undertake, and who does them, and in what order, and so on. I am hoping we'll learn some of that.

But what I would really like to learn at the outset is something about the history of this. When did these-- And I know your history with the organization only goes back so far. These sound like systemic problems. Did they go back to past gubernatorial administrations? When did these problems really become as pressing as they are now?

DR. MURPHY: Again, this Administration has -- I think this current Administration has been there for eight years, and I have only been on the Board for ten. So I don't think there were problems when I first got on the Board. What about that--?

DR. HART: When I first came on the Board, it seemed to function somewhat smoothly.

DR. MURPHY: There were eight deputies when we first came on the Board.

What happened is, over time, people would leave and then that position wouldn't be filled. We had a serious, serious loss two years ago when the Acting Executive Director, an amazing, wonderful human being named George Hebert, died suddenly; and the Deputy, then, became the Executive Director. They never filled that Deputy position. It was budgeted, but never filled.

SENATOR GORDON: Were there requests made to higher-ups, I mean, to the Director of the Division or to the Governor's Office, to fill these positions? And if so, what was the answer that came back?

DR. MURPHY: I'm going to-- Dr. Carolina really has a sense of this, as the Executive Director. So other than me writing to the Governor three times for Board appointments and getting no response-- The first response I got was the day after we sent out that letter, and it was a Friday night at 6:30. Who -- who is in Trenton--

SENATOR GORDON: You sent the July letter to the legislators.

DR. MURPHY: Yes, yes. Excuse me. Who is in Trenton at 6:30 on Friday night? (laughter) I mean, that was the first response I got from the--

SENATOR GORDON: Well, this Committee is, sometimes. (laughter)

DR. MURPHY: Are there? Okay; from the appointment secretary. (laughter) I was stunned; Friday night at 6:30, and it was from the appointment secretary saying, "Oh, yes, we got your letter." And I had written it in February, April, June. Finally, they responded, saying, "Give us some suggestions for people who you think would be good Board members."

None of the suggestions that any of the Board members put forth were appointed.

But coming back to the systemic stuff -- I think Dr. Carolina could really speak to that.

SENATOR GORDON: Okay; Dr. Hart.

DR. HART: I also recall visits from the head of the Department of Consumer Affairs, at which we would -- you know, we would, frankly, tell him about our concerns. And his response was very -- sorry -- but kind of *la-di-dah*; his response was that, "All the boards were complaining." Well, if all of the boards are complaining, you know, it kind of dissolved our complaints.

DR. MURPHY: Go.

SENATOR GORDON: Well--

**D O R O T H Y S M I T H C A R O L I N A, P h . D . :** Good morning--

SENATOR GORDON: Go ahead, Doctor; unless other members of the Committee have any questions for Drs. Hart or Murphy.

SENATOR WEINBERG: I do.

Dr. Murphy, you said something about educational programs that should be closed and were still in operation. Could you explain that a little further?

DR. MURPHY: Every program has to submit all their documentation, and their curriculum, and their objectives to the Board, and they're put on a probationary period. And then the statute is really much too long, because schools that are failing get to hang around a long time and try and repair the situation.

But there were schools that, I guess, for four or five years, kept not having passing scores as they sat for boards.

SENATOR WEINBERG: You mean that the--

DR. MURPHY: The nurses who would take-- The LPN schools -- people who were taking the boards, who came out of that school, were not passing at a rate that the Board requires, which is 75 percent, right? And so they would be put on probation; and then they would write more good paper, and then they would be put on probation again. I think there are at least two schools that should have been closed a while ago, but that would require a visit, that requires staff to do the work. We don't have it.

Dorothy, you can speak to some of the educational stuff, because you lived it, right?

SENATOR WEINBERG: Well, before you do, let me just finish with-- I'm sorry.

DR. MURPHY: See, what we are, our Board--

SENATOR WEINBERG: I mean, I find that very shocking--

DR. MURPHY: Yes.

SENATOR WEINBERG: --because you are talking about students who went to a school and must have paid money--

DR. MURPHY: Large sums.

SENATOR WEINBERG: --and spent whatever portion of their lives thinking they were coming into a profession.

DR. MURPHY: Right.

SENATOR WEINBERG: And it is-- According to what you are telling us, there are at least two schools that should not have been allowed to operate in the State of New Jersey.

DR. MURPHY: For-profit LPN schools.

SENATOR WEINBERG: That's kind of new information that, at least, I didn't have before. And I appreciate your bringing that to our attention.

And one other quick question. Dr. Hart, when did your term of office expire; or are you a holdover?

DR. HART: I'm a holdover; I was appointed for two years in 2007. (laughter) And at that point I said, when my two years were up, "Well, it's been great knowing you." And they said, "Well, you can't leave now, because there's no Public Member." And therefore, I have stayed another -- literally, since 2009. I brought my resignation letter in, and Pat just kind of turned me away because without a Public Member on the Board, it's a missing voice. It's a small member-- I mean, you know, I'm one member of the group, but the only one with the non-nurse perspective. And I think that's important to have on a board -- somebody with a different point of view and a different outlook.

SENATOR WEINBERG: Okay; thank you.

ASSEMBLYWOMAN MUÑOZ: If I may follow up to Senator Weinberg's question.

Pat, you speak about the fact that there's a person now whose job it is to look at these 84 schools of nursing? Is that--

DR. MURPHY: There is no person.

ASSEMBLYWOMAN MUÑOZ: There is no person.

DR. MURPHY: There is a consultant who comes in, maybe, twice a week, period.

ASSEMBLYWOMAN MUÑOZ: And she's paid on an hourly basis--

DR. MURPHY: Yes.

ASSEMBLYWOMAN MUÑOZ: -- or is she salaried?

DR. MURPHY: She's a consultant.

ASSEMBLYWOMAN MUÑOZ: A consultant. So one of your number one recommendations--

DR. MURPHY: An hourly rate.

ASSEMBLYWOMAN MUÑOZ: An hourly rate -- would be to have--

DR. MURPHY: A fulltime--

ASSEMBLYWOMAN MUÑOZ: A fulltime-- And do you believe that one individual, a fulltime employee doing this job, would fill that need?

DR. MURPHY: No.

ASSEMBLYWOMAN MUÑOZ: Oh, because the people in the back are shaking their heads "yes." So maybe they're thinking-- You think it needs more than that?

DR. MURPHY: Certainly, this one professional person needs a staff to help, yes.

ASSEMBLYWOMAN MUÑOZ: And my next question is, you know, you talk about the staff people who are in your office; and there's one professional staffer-- You know, I like to look at this as if it was a private corporation, where there are job descriptions. Do you have job

descriptions and the qualifications for these jobs; that, in order to fill these positions-- You know, if you were in the private sector and you were-- If I worked as a nurse in a hospital, I would have a job description and I would have what was required of me and, therefore, what my qualifications are. If you were to write your job description for those 31 separate -- 38 separate professionals -- whatever that number is -- would that help--

DR. MURPHY: Yes.

ASSEMBLYWOMAN MUÑOZ: --you to fill your positions adequately and properly?

DR. MURPHY: There is a job description for the Executive Director.

ASSEMBLYWOMAN MUÑOZ: But not the--

DR. MURPHY: In fact, in the statute it's called *Executive Secretary*. But there is that job description, but not for any of the other deputy-types.

ASSEMBLYWOMAN MUÑOZ: Is there a reason why not? Is that something that could be done by the Executive Director, as far as-- And then, therefore, you would be able to fill it with qualified persons? What you perceive -- what you understand--

DR. MURPHY: You understand, we do not control our budget. We bring in \$13 million to \$14 million a year.

ASSEMBLYWOMAN MUÑOZ: But even separate from that, though, let's-- You know, the people who are -- you say there were eight nurses; now there is one.

DR. MURPHY: Yes.

ASSEMBLYWOMAN MUÑOZ: So those seven positions that were filled, that were formerly filled by nurses -- those people are probably making the same salaries. But my basic question is, if you were to write a job description defining what they had to do, and if they don't meet those qualifications, would you be able to, therefore, fill those seven positions with nurses? Is that a fix that could help you to more adequately staff the Board of Nursing?

DR. MURPHY: Go ahead.

DR. CAROLINA: No one else can do, or oversee, the Nursing Education Department, or the unit within the Board of Nursing, other than someone who is master's-prepared, minimally. Because the role of that individual is to oversee the programs to ensure that they're meeting the standards set forth by the regulation, making sure that they meet the standards in terms of their NCLEX scores, because that's one of the outcome measures that we use to determine the quality of the program. And so that individual would need to have that background of nursing education to even be able to oversee that.

And so that's not something that has been turfed to another individual; it's one individual. So, at one point, if we have seven individuals overseeing the Education Unit, then now there's only one person overseeing that Education Unit. Because what happens is, when individuals retire or leave, the position is lost through attrition; or they replace that staff position with a temporary worker.

ASSEMBLYWOMAN MUÑOZ: I don't think you're-- That's not my point.

DR. CAROLINA: Right; yes.

ASSEMBLYWOMAN MUÑOZ: My point -- there are two separate points. Point number one is what you're saying -- that that fulltime position should be filled according to a job description.

DR. CAROLINA: Right.

ASSEMBLYWOMAN MUÑOZ: And in addition, the seven other positions that are filled by non-professional staff -- if you were to have a job description for those positions, you would-- Because one of the things that I'm hearing is that you don't have an adequately educated staff within the Board of Nursing to meet the needs of the Board, correct? Beyond the Board--

DR. HART: Although we used to.

ASSEMBLYWOMAN MUÑOZ: --these are-- That's what I'm saying. But if you were to write a job description that said the qualifications are *A, B, C, D*, then you could get somebody -- you could fill those positions with qualified personnel. Would that be a step towards achieving your goals? Again, I'm looking for solutions--

DR. MURPHY: Yes.

ASSEMBLYWOMAN MUÑOZ: --that make sense.

DR. MURPHY: To me, seven is, like, never going to happen. I mean, that would be wonderful. But if we had a professional for Discipline, a professional for Education, a professional for ED, and then a Deputy, that would be like manna from heaven. And I could go home today and tonight and write job descriptions for every one of them, yes.

ASSEMBLYWOMAN MUÑOZ: Thank you.

SENATOR GORDON: Senator Weinberg has some questions.

I wanted Dr. Carolina to be able to give her presentation at some point; because I have a feeling many of these questions would be answered.

Senator Weinberg.

SENATOR WEINBERG: Yes. I'm sorry, but more things keep coming through my brain here.

I'm looking at Steve Lee's letter, which says, "Some have suggested that the lack of a Deputy Executive Director...somehow represents a failure of the Division." The next sentence is very comforting to the members of the Committee here. "At the outset, you should know that there are no Deputy Executive Directors for any of the 46 Boards and Commissions." (laughter) That, I guess, is somehow to be construed as a positive, or a reason.

And then they say that, "The Division installed an Operations Manager to assist with the Board operations." Did that happen, or did that answer any questions, or--

DR. MURPHY: Dorothy, you take that one.

SENATOR GORDON: Senator, I wonder if we should just let Dr. Carolina make her presentation. Some of this information may be in there, and then we can just do follow-up questions.

SENATOR WEINBERG: Sure.

SENATOR GORDON: Dr. Carolina.

DR. CAROLINA: Good morning, Senators.

Thank you for the opportunity to speak on behalf of the citizens of New Jersey.

I am Dr. Dorothy Smith Carolina, and I served as the Executive Director of the Board of Nursing from May 31, 2016, to August 11, 2017.

Serving as the Executive Director of the Board of Nursing was the highlight of my professional career. As a registered nurse for nearly three decades, I was honored and privileged to serve the citizens of New Jersey in this capacity.

As the Executive Director, I was responsible for managing the day-to-day operations of the Board of Nursing, which included managing the fulltime and temporary staff; overseeing the 84 nursing education programs, which included addressing student and other consumer complaints, monitoring the programs to ensure that they were meeting educational standards, approving new schools of nursing, and initiating, in some cases, the process to close schools that were not meeting the standards; overseeing approximately 520 home health aide training schools; monitoring the practice of over 200,000 licensees and certificate holders; overseeing the disciplinary process of the licensees and certificate holders -- and as Dr. Murphy mentioned this morning, 200 to 300 discipline cases are reviewed by the Board each month; as well as overseeing the process of all individuals interested in obtaining a license to practice nursing in New Jersey.

Only after three short weeks in the position, it became very apparent to me that the situation at the Board of Nursing was at a crisis level. Given my many years of management and nursing education experience, I felt confident in my ability to resolve these issues over time. Unfortunately, I was wrong. I quickly learned that as Executive Director of the largest professional licensing unit within the Division of Consumer

Affairs, I had no authority or autonomy. All decision making occurred outside of the Board of Nursing, and there was no opportunity to provide input relative to the budget or human resource management. I had to obtain permission from the Director's Office before implementing any changes within the Board that I felt would improve the operations. In fact, my immediate supervisor once told me that I even needed to get his permission to move a staff member from one cubicle to another.

Although the Board of Nursing generates millions of dollars in revenue, only a small portion of the monies are utilized for the operation of the unit. The rest of the funds are deposited into the General Fund. Any attempts that I made to obtain more resources were denied by the leadership of the Division; instead, I was directed to develop plans to increase efficiency, which was not to include additional resources.

There are 27 fulltime staff members working at the Board of Nursing, virtually all of whom are considered *non-professional employees*. Prior to my tenure, the Board was known to have more professional RN staff. Unfortunately, positions that were vacated due to retirement were lost through attrition or replaced with temporary staff and government representatives; and those government representatives are individuals with political ties who do not report to the Executive Director.

Needless to say, staffing is inadequate and does not support the vital functions of the Board. However, the individuals who currently work there are hardworking people, dedicated to protecting and serving the citizens.

Individuals wait months to get licensed and, on average, there are several hundred nurses waiting to be licensed by endorsement each

month; and the Endorsement Section typically operates two months behind. When I left in August, the staff was still working on applications from June.

The Exam Section experiences peak season during the months of May through September, and again from December through February, due to graduations. Typically, overtime is approved by the Administration to handle the increased workload during this period. The last peak season, from May through September -- or from May until the time I left in August -- overtime had been denied.

Staffing for the processing of home health aide applications is also inadequate; and attempts to improve the efficiency without increasing the staffing has been unsuccessful, despite reports to the contrary.

As of the second week of August, there were approximately 4,000 individuals waiting for licensure or certification. However, reports indicate that major attempts are being made by the Division of Consumer Affairs to “clean up” the issues that have been highlighted as a consequence of inadequate staffing. Unless permanent solutions are implemented -- such as additional professional and non-professional staff -- the problems of the Board will continue.

The Board regulates 84 schools of nursing and approximately 520 home health aide training schools. A few of these schools were due to be closed two years ago, but remained open simply because staff was not available to monitor them. How many others need to be closed?

Currently, there is one Nursing Education Consultant responsible for enforcing the regulations and ensuring that the schools are

meeting the standards. The Board of Nursing needs a fulltime registered nurse to oversee this vital Board function.

And finally, my decision to resign as the Executive Director of the New Jersey Board of Nursing was not an easy one. It was clear that the problems at the Board were not going to be resolved until the much-needed resources were invested. It became increasingly difficult for me to show up for work each day, because I believed that the Division was more concerned about political posturing than supporting the work of the Board.

I experienced many sleepless nights worrying that one day something terrible would happen as a consequence of not having the funds to execute the very important work of protecting the public. I was not optimistic that things would change, as the priorities of the Division were based on the professional ambitions of the administrative staff, and not that of the Board.

I am aware that representatives of the Division will be present today and attempt to cast a shadow on myself and the members of the Board. Please know that it is not about me or the members of the Board of Nursing; it is about the people living in my community and yours. As a proud member of the largest single group of health care providers and the most trusted profession in the nation, I am here to advocate for the citizens of New Jersey because they deserve better.

Thank you.

SENATOR GORDON: Thank you very much, Dr. Carolina.

I'm trying to understand the source of some of the problems that you describe.

You said that you would submit requests to the Director's Office for additional resources, additional staff; and they were denied. Was that a function of this particular Director? Was he responding to pressures from above? Can you shed some light on that?

DR. CAROLINA: The Division of Consumer Affairs-- I mean, I came from the private sector, so coming into the public sector from working the private sector was-- On some days, I felt I was in the Twilight Zone. But I recognize that I was working in a bureaucratic structure, so I understood the levels of communication and how communication flowed; and if I had an issue, who I needed to take my issue to at the onset.

So the structure of the Division of Consumer Affairs was -- you have the Executive Director; who then reported to an Assistant Deputy Director; who reported to the Deputy Director; who then reported to the Director, who was Steve Lee. And so if I had any issues that needed to be addressed, I needed to speak to my immediate supervisor, who was the Assistant Deputy Director. From what I understand, before taking that position, this individual had no real management experience. And so it was a challenge for me to get him to understand what I needed, from a management standpoint.

And so after one or two meetings, I realized that no -- resources were out of the question. And so I was often instructed to, "Well, figure out a way you can work smarter, essentially, without, you know, getting more resources," because we didn't have any.

And so that was a challenge for me, especially-- And I use the analogy that -- you hire me as a basketball coach, and the expectation is that you want me to win a championship with my team. But it's impossible

to win a championship when, you know, I only have two players when I need five. And so it became increasingly difficult for me to explain that I can change the processes all I want but, at the end of the day, it boiled down to numbers. And I just couldn't convince them to provide me with the resources that I needed.

The New Jersey Board of Nursing -- along with the other states and territories in the United States -- are members of the National Council of State Boards of Nursing. And the National Council is the organization -- the national organization provides resources to the boards of nursing, because they understand that many of the boards of nursing fall under these umbrellas, or work for, or operate, under state agencies. And many of these state agencies are pressed for resources.

So the National Council comes up with all kinds of resources to help; just-- The Executive Directors manage the challenges of the limited resources, and so-- Because we have so many Disciplines at the Board of Nursing, they have a resource at the National Council called *ORBS* -- O-R-B-S. And basically what it is -- it's a system that allows the Executives at the boards of nursing to basically-- It's almost like a computerized system to help manage the Disciplines; to be able to, essentially, press a button and be able to see the Disciplines from as far back as, you know, the time that you put the Disciplines in. So I thought it was a great idea. It wouldn't cost the State any money; and I said, "Wow, this is something that we could use to, kind of, streamline our Discipline process."

And so I bring the literature back, after attending the National Conference, and I speak to the Assistant Deputy Director. I provide him with the documentation, and he said he'd take a look at it. A month goes

by, two months go by, and I mention to Dr. Murphy, I said, "Oh, this ORB system," and she says, "Well, you know, did you follow up with him?" I said, "Yes," so I sent him another e-mail.

Long story short, he comes back to me and says, "You know what? We can't do it." And I said, "Well, why not?" He says, "Well, because none of the other boards have it." (laughter) I said, "Well, that --" I don't even remember what my response was to him, but that's the individual who told me I needed to get permission to move a staff member from one cubicle to another.

And so it just baffled me as to why-- If you tell me, on one hand, that we can't do *A*, *B*, and *C* because we don't have the resources, here is a way to help us streamline and manage the workload at the Board, as it relates to the disciplinary actions, and you tell me "no," because the other boards don't have it.

SENATOR GORDON: The question I have is-- And you know, I have to tell you what I find particularly frightening about this testimony is that I'm concerned that this is -- we're hearing symptoms of a statewide disease. We've been having a number of hearings here on New Jersey Transit -- it couldn't be more different than nursing -- but we're hearing reports of critical positions in vehicle maintenance not being replaced, or locomotive engineers, and so on. And I'm just wondering whether the problems are all coming from one source; whether there is a directive out there from the Governor's Office that we're not going to be hiring any more people. In fact, wasn't there a hiring freeze imposed at the outset of the Christie Administration? I'm wondering whether this is really based on ideology, as opposed to management needs of these organizations.

DR. MURPHY: I think it would not be good for anyone if this issue, particularly, gets perceived as either a Democratic issue or a Republican issue. This isn't either; it really is about a crisis that's been growing for years and years. And it's not about blame; it really has to be about-- let's dig down and figure out how to fix it.

And I don't want it to become a partisan issue, because then half of the people won't support us. You know, we need everybody to understand that we are desperate. And the citizens of New Jersey need a functioning, good Board of Nursing, supported by both Democrats and Republicans. So I'm very hesitant to make it about this Administration

You know, if there was a Democrat, maybe the same thing would happen. I don't know; maybe it's about a lack of funds overall. But it just needs to be fixed.

SENATOR GORDON: I certainly don't want to make this a partisan issue. And if this is a problem that has persisted from one Administration to the next, it suggests that there needs to be some kind of fix--

DR. MURPHY: Yes.

SENATOR GORDON: --that changes the structure. In fact, one of the things that I believe will be coming soon is a bill I'm going to introduce, relating to restrictions on how long a position can remain vacant before there has to be some action taken by the Governor's Office, which would apply to Governors of both parties.

But Dr. Carolina, I thought you made some reference to patronage positions. I know in other agencies there have been allegations that critical management positions were filled with people who came over

from the Governor's Office, or were people selected not because of technical qualifications. Do you feel the same problem can be found here?

DR. CAROLINA: Yes. When I interviewed for the position, the individual who was in the Deputy Director's seat was the individual who was the Acting Executive Director. And about a week before I assumed the role, she invited me out to lunch to tell me that they were moving her to another board; at which time that Deputy position remained vacant.

So inquiring about the filling of the position, I was told, again, no such position exists; when I know-- I mean, I've been a nurse almost 30 years and I am very familiar with the structure of the Board of Nursing; and nursing is a very small community, although we represent almost 150,000. But we knew who was sitting in those seats. And I think, at one time, George Hebert who was the Deputy Director before he assumed the Executive position. So that position was always there. And again, when I interviewed, I was under the impression that that position would also be filled once I came onboard.

Though when you talk about patronage-- One of the things that concerns me as the Executive -- because, again, inherent in the role or the title *Executive Director* there are certain assumptions you make about what you can and cannot do; and I was certainly surprised to know that I did not have access to the budget to see what positions were available and what positions were not. And so I found that, after being in the position for six months -- when we talk about this Operations Manager, the Operations Manager that is sitting in the seat, I believe is sitting in the line that was designated for the Deputy Director. And they call this person the *Operations Manager*. This person was taken from the Accounting Board to

the Board of Nursing because, personally, I believe we were the only Board that was able to absorb his salary. This individual did not report to me; he only reported to the folks upstairs. And so when you talk about political patronage and such -- that position, I know for a fact, is -- as well as these government rep positions that are not reporting to the Executive Director. These people are not -- they're just placed in the boards; they are relatives of someone who is in a higher position, or who are relatives of people who work on the board; and they do not report to the Executive Director of those various boards. They report to line supervisors, just as I do.

SENATOR GORDON: Okay.

Senator Weinberg, did you have some questions?

SENATOR WEINBERG: I'm going to follow up on what Senator Gordon just asked.

You referred, in your testimony, to *government representatives* who don't report to you. So I'm assuming the Operations Manager, as you outlined, was one of those people who, we've been told, was helping out with the -- from Steve Lee's letter -- that you were getting the staff assistance you needed. Were there other, as you call them, *government representatives*--

DR. CAROLINA: Yes.

SENATOR WEINBERG: --at-- And can you tell me the titles, or how many people like that there were?

DR. CAROLINA: Well, in the Board of Nursing, there are two positions designated for government reps. During my tenure, there was one individual who filled the position, and he left, maybe, six months after I began. And so there was a time when none of those positions were filled

which, again, for me, it didn't make a difference because they didn't report to me; I had no hand in hiring them, or no one asked for my input. They just-- I get an e-mail one day, "Oh, you have a new government rep showing up."

SENATOR WEINBERG: Did they call them *government reps*?

DR. CAROLINA: Yes, that's their title, *government representatives*.

DR. MURPHY: But the staff at the Board of Nursing calls them *family and friends*. (laughter)

DR. HART: And they did not exist in 2007.

SENATOR WEINBERG: So there were--

DR. HART: When I came on the Board, there were no government reps.

SENATOR WEINBERG: There were two government reps, in addition to the so-called *Operations Manager*?

DR. CAROLINA: Yes.

SENATOR GORDON: Do we know how much those people are paid?

DR. CAROLINA: The government reps make about \$60,000. This Operations Manager made more than me; at least upwards of \$100,000-and-some-odd-- I mean, I-- But again, I guess you could go online; it's public information, but--

SENATOR GORDON: Just for our edification, Dr. Carolina, could you just give us a really quick résumé of your credentials and education background?

DR. CAROLINA: I am a nurse 29 years. I am a graduate of the Mountainside Hospital School of Nursing, where I received my diploma in Nursing; a Bachelor's of Science in Nursing from Seton Hall University; a Master's of Science from Columbia University; and a Doctor of Philosophy from Rutgers, The State University of New Jersey.

SENATOR WEINBERG: Is that all? (laughter)

DR. CAROLINA: My professional career spans through nursing education, nursing management, clinical practice, advanced practice, nursing research.

SENATOR GORDON: Okay.

SENATOR WEINBERG: I guess that doesn't qualify you to be a government rep, though. (laughter)

Also, in Steve Lee's letter, we've heard -- in opposition to the claim that the Executive Director of the Board has no budgetary control -- he said "In actuality, all of the Executive Directors have meetings with the Division's Chief Administrative and Budgetary Officer, within which their budgets are discussed, the needs for fee increases and possible fee credits," etc. etc. "In addition, twice a year the Executive Directors review the projected budget for their particular board, supplied to them by the Division's Budget Office." So that was centralized -- the budgetary control was centralized under Consumer Affairs, I gather, from his--

DR. CAROLINA: Yes. And I have to say, that's not true. I have never been brought in to look at the budget. I couldn't tell you what the budget looked like, other than once a year someone from the Central Office comes down to the Board meeting to just say, "Here's the budget," and that's that. There's no input; I'm not sitting down to say, "Hey,

because we've increased the number of licensees by 20,000, we need to increase the number of staff to handle this by X." Those conversations, those meetings, never took place.

SENATOR GORDON: And that sounds like just one structural change that needs to occur. I mean, the budgeting process just seems greatly flawed in that regard.

DR. MURPHY: Someone from Budget would come down every December, to a December Board meeting, and present us with the budget. We would, of course, complain a lot, and they would say, "Yes, I'm so sorry," yada, yada, yada; and then they'd go away. So once a year they came and gave out the budget.

SENATOR GORDON: Our understanding is that the budget is \$13 million; or there's \$13 million in fees that are being generated. And it is also our understanding -- and correct us if we're wrong -- that that sum should be more than -- would normally be more than adequate to pay for the needs of the organization, but that the funds are essentially sucked away to the general operating budget of the State. Is that correct?

DR. MURPHY: To help you understand that, I think it's important to know that our licenses -- okay? -- Assemblywoman Muñoz, your license runs out every two years in May.

ASSEMBLYWOMAN MUÑOZ: May 31.

DR. MURPHY: May 31. So every nurse in New Jersey has to renew their license on alternate years, all right? -- which means that when June comes, and July 1, at the budget time, it looks like we have lots and lots of money. But that's because all these fees have just come in, right?

One of my suggestions -- and we couldn't make it happen -- was, we should move our licenses to expire September 30, because then when the Administration comes around looking at how much money you have, we won't have that much for them to take. Last time they took \$6 million from our budget, but there's a law that allows them to do that. And that left us with not enough money to have adequate staff to do our work. So we certainly bring in enough; we just don't get it.

ASSEMBLYWOMAN MUÑOZ: Excuse me--

SENATOR GORDON: Let me allow Senator--

SENATOR WEINBERG: Excuse me, I just have one--

ASSEMBLYWOMAN MUÑOZ: Oh, sure.

SENATOR WEINBERG: So in essence, the nurses in the State of New Jersey are paying an extra tax.

DR. MURPHY: Yes.

DR. CAROLINA: Yes.

SENATOR WEINBERG: However you would like to call this, they are paying-- It is the nursing profession-- You know, this is the most respected profession, generally underpaid, generally--

DR. MURPHY: It's getting better.

SENATOR WEINBERG: --if I could make a generalization. I don't think too many people would--

SENATOR GORDON: You have a lot of friends in the audience. (laughter)

SENATOR WEINBERG: --disagree with me. And we all come in contact with you.

DR. MURPHY: Yes.

SENATOR WEINBERG: We all need your help and services, whether it is -- unfortunately, when you're in a hospital or your loved one is in a hospital -- this really--

DR. MURPHY: Or you send your kid to school.

SENATOR WEINBERG: I try not to get angry over these things, but--

SENATOR GORDON: You get angry about a lot of things; and it's a good thing. (laughter)

SENATOR WEINBERG: Yes, there are a lot of things to be angry about, and this is one of them. And I certainly would like a Civil Service description of the title *government representative*.

Thank you.

SENATOR GORDON: Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: Well, going back to the fees, you know, because every licensed professional-- I know that my son, in order to get his medical license in the State of New Jersey, it's a \$2,000 fee. So they charge a lot.

But I'm curious -- we get our drivers licenses now -- we've changed it to -- based on our birthday. Is there any reason that we can't-- Do we have to have it on one date? Because that does skew your budget. My birthday is in September; is there any reason I couldn't renew -- we couldn't set up a system to renew on our birthdays, so that you would have a continuous flow of money into the system, so you don't skew your books? I mean, that's something we could look at, correct?

DR. MURPHY: Yes.

ASSEMBLYWOMAN MUÑOZ: The other question I have, Dr. Carolina, is-- You said none of the government reps report to you. Did you have any difficulty getting them to do their jobs since you weren't their direct supervisor?

DR. CAROLINA: I pride myself, as a manager, to have really good relationships with my folks. And so, no, I didn't have any difficulty getting those individuals to do their work because, you know, I developed a relationship with them to say, "Hey, this is what we need to do." Only if the, probably, rare occasion that I had to, you know, speak to one of them -- and again, because they didn't report to me -- I had to be careful about saying, "Hey, you know, step it up," you know, without saying it to the boss. I had to say it to Joey to, "Step it up." But other than that-- I'm sure there are EDs from other boards who may have difficulty with their government reps; I did not.

ASSEMBLYWOMAN MUÑOZ: And you all -- you keep speaking about who your supervisor is. Is that the head of DCA who is your--

DR. CAROLINA: No, no, no. He's the Assistant Deputy who was, at one time, a government rep; and he was promoted to--

ASSEMBLYWOMAN MUÑOZ: So for the record, it's not the head of DCA who was your immediate supervisor?

DR. CAROLINA: No.

SENATOR GORDON: Assemblywoman, are you finished?

ASSEMBLYWOMAN MUÑOZ: Yes; yes;, sorry.

SENATOR GORDON: Just one question that occurs to me, and forgive me if you touched on this.

Has the inadequate number of nurses on the staff affected the quality and the number of investigations that you can do? I think I know what the answer is, but I'd like to hear it from you.

DR. MURPHY: Yes.

Because nursing practice issues that come before the Board -- right? -- you have to have been a nurse to understand that medication errors are system errors. You have to have that background to understand what it's like at 4:00 in the morning in the Intensive Care Unit when something happens. And so if we're reviewing cases of Disciplines, that nurses are being disciplined for -- when, maybe, it really is a system issue -- it really is important to have been there and to be a nurse. And so, yes, it gets in the way.

And what happens is, when we get cases that were referred not by nurses, the Board would change it, because we had reviewed it and all of us, except for two, are nurses.

So yes, a professional person to manage Discipline -- which Deb is doing now, in one of her three jobs-- The last memo I got from Deb Zuccarelli before I was off the Board came at 1:47 in the morning. That's the kind of work that this woman, who is now Acting ED, is doing. She's at her computer at 1:47 in the morning doing work for the Board of Nursing; and she's drowning.

We do have lots of other people to testify, right? I don't want to keep them from--

SENATOR GORDON: Yes. In fact, I would like to try to bring up another panel before we recess.

DR. MURPHY: Good.

SENATOR GORDON: I want to thank you all for some excellent testimony; some fact-filled testimony and actionable items that I hope will lead to some legislation or changes in practices.

DR. MURPHY: Thank you.

SENATOR GORDON: Thank you all very much.

ALL: Thank you.

SENATOR GORDON: I'd like to, next, call as a panel Ann Twomey, the President of Health Professionals and Allied Employees; Doug Placa, the Executive Director of the JNESO; and Benjamin Evans, the President of the New Jersey State Nurses Association.

Welcome, all of you.

Let's begin with Ann Twomey.

**A N N T W O M E Y:** Okay, thank you.

So, I'm Ann Twomey; I'm President of Health Professionals and Allied Employees, and we represent about 13,000 nurses and health professionals throughout the State of New Jersey.

And first and foremost I want to thank you for this hearing. I think it shines a light on a problem that has been going on for too long; one that no one really sees, but people will feel the consequences -- we feel the consequences of it. So I applaud you for this hearing.

As a union, we work with dealing with policies, and we represent nurses in the worksites. But also-- I'm going to try to limit my remarks to the things that the previous panel didn't speak on, specifically. And by the way, they did an excellent job in pointing out what they do and what the need is.

But I want to talk a little bit more about the consequences of not having a fully staffed Board of Nursing.

We know that the Board oversees licensing of all nurses; they also oversee the licensing, and training, and the programs for certified home health aides. And that is how the standards for -- the nursing standards are reviewed, met, kept, enforced; and they become transparent. And that is a very, very important role of the Board.

A few years ago we had a nursing shortage, and one of the problems was that there weren't enough nurse educators to teach nurses. That's been fixed. Now we have men and women coming out of nursing school; and when they come out of nursing school -- in the past, you would sit for your boards and you could get your license. Now they have to wait two or three months just to be entered into the computer for them to be eligible to take their boards.

And as we look into -- as we are heading into another nursing shortage, these are preventable problems, if we have the proper staff. And when I say *proper staff* at the Board of Nursing, it has to be qualified staff. It's not just that you can hire a consultant to come in and do some paperwork. It really undermines the work of the Board to say that just anyone can come in and do this work. It is much more important and serious.

And it's not just the problem for the nurses, and it's not just the problem for the staff. But it will be a problem for the patients, and it becomes a problem for the facilities. And so you can't just look at the smaller picture; you have to look at the larger picture.

A few years ago -- and I'm going to say it was 2005 -- there was a bill, a law that was passed -- called the *Cullen Law* -- and we probably all remember the circumstances of that -- which required greater reporting requirements to the Board by employers for potential infractions of practice standards. Now, some of us may, and do, disagree with how broad the nature of the reporting requirement is; but it exists. And once a nurse is reported, he or she may not be permitted to practice while this investigation is underway. And they are, at times, just left in limbo.

And they are virtually unemployable at this time, while this is hanging over their heads. We've seen some members who have been reported to the Board and they, at times, wait for more than a year for their so-called *day in court* -- for the case to be heard. And in far too many cases, good nurses have had their livelihoods and their reputations destroyed by this, only to have their case overturned when the investigation is over.

So we're in the midst of and heading into a nursing shortage. We know that this will only exacerbate the problem. We've also heard, and we understand, that as a nurse, I do pay my fees. I am faithful in paying my fee for my license; and the expectation -- at least on my part, and I think on the public's part -- is that the fees are going into the Board of Nursing to do the things that the Board of Nursing is supposed to be doing. And so when you hear that there is \$13 million -- I particularly don't care when it's collected, whether it's in May or every single month -- I think that there should be a budget for this, there should be a clear mandate that the staffing of the Board needs to be met. There is funding for it, and that, to me, is the purpose of the licensing fees.

Failure to do this undermines not only the work of the Board, but it undermines the importance of the profession that we represent. And that is, really --- that's a shame; it's not a political statement. Our citizens, the patients, the people; who we serve, the people who we help deserve to have qualified people and they deserve to have people who are nurses and nursing assistants who are properly trained, properly educated, properly monitored and licensed. And they deserve that.

And so we ask that you-- The solution seems to be simple. We know they need help; we have to get them help. And so if we get the help for the Board of Nursing, the problems could be solved.

Thank you.

SENATOR GORDON: Thank you.

Mr. Placa.

**DOUG PLACA:** Thank you, Mr. Chairman.

At the risk of sounding redundant, I'd just like to say, from the outset -- I'd like to thank Drs. Murphy, Hart, and Carolina for their service to the Board of the State of New Jersey. I think that should be said as well.

And also, thank you for holding your press conference on July 31, with Senator Weinberg, to bring to light the lack of full representation on the Board of Nursing. Surely an agency that oversees over 200,000 licensees needs the resources necessary to fulfill its mission of ensuring that nurses and certified home health aides meet the requisite educational requirements for licensure and certification; while, at the same time, accrediting nursing schools, and processing and investigating those who do not perform their duties in compliance with State laws.

To do so requires the participation of the full Board and the staff necessary to meet its goals. Recently, the Governor did fill some of the vacancies that had gone on for far too long. With what has been reported to be over 4,000 individuals awaiting licensure or certification, I would implore this body, and the Governor, to give the resources necessary for prompt and thorough processing of licenses and certifications. For a Board that generates over \$13 million in revenues annually from members, surely providing support to the Board and its staff should not be shortsighted.

As the health care climate is ever-changing, the constant that patients and their families rely on is good quality healthcare. Their concern isn't whether the Board of Nursing is processing licenses quickly enough. Providing the appropriate resources is paramount to "protect the health, safety, and welfare of New Jersey's residents by ensuring that those who practice nursing are qualified and competent to do so." And the key word is *ensuring*.

As a former Chief of Staff to the New Jersey Department of Labor and Workforce Development, I certainly understand what it means to protect the public by ensuring employers provide a safe work environment for its employees. To take it a step further, this Board is tasked with ensuring patient safety while, at the same time, processing licenses so that health care facilities can hire and retain competent staff.

We're all aware of the on-going shortage of nurses in the workforce. Not processing certifications and licenses for qualified professionals, or investigating complaints, further contributes negatively to the situation, and is a disservice to patients who need nurses at the bedside -- which is one of the reasons why our organization -- our organizations

fight so desperately for minimum nurse-to-patient staffing ratios. But that's a discussion for another day.

For an organization that represents over 5,000 nurses, I highly recommend that you continue to push our Governor to appoint the remaining members of the Board of Nursing and give its staff the necessary means to carry out its mission.

Thank you.

SENATOR GORDON: Thank you, Mr. Placa.

Dr. Evans.

**BENJAMIN M. EVANS, DNP:** Good morning; thank you for inviting me to be here.

The leadership of the New Jersey State Nurses Association and the Board of Directors are very concerned about the issues at the Board of Nursing. We believe that these issues do put every citizen of New Jersey, who is a potential health care consumer, at risk. And we are aware that these have been ongoing for a number of years, but increasingly so in the last four to five years.

Late last week, Governor Christie announced the appointment of 10 new members and 3 reappointments to the Board of Nursing. The New Jersey State Nurses Association surfaced 6 candidates for appointment; we are zero for 6. We don't know where those candidates came from, but none of our recommendations were appointed.

It's a bit uncanny that on Friday of last week all the positions were filled, and Dr. Patricia Murphy and Dr. Hart were relieved of their positions. That's 20 years of institutional knowledge and experience gone

from this Board; and you have a Board returning with 3 seasoned members, and 10 new members who don't even know what they're going to get into.

As Ms. Twomey said, we are facing another nursing shortage, and it's looming large. What's happening in nursing is that we're graying out. I've been a nurse for 43 years, and I can tell you it's not an easy profession at the bedside. Many of our nurses could not afford to retire; now they're able to retire a little sooner, and we're beginning to see gaps coming back.

The faculty shortage is really a problem in some schools; they just can't get qualified nursing faculty.

The budget at the Board of Nursing should not be an issue. We know that the Board generates approximately -- and this is coming from the budget that we received under OPRA regulations -- approximately \$14.5 million; and it's not clearly identified in that budget how those monies are expended. That's kind of a problem when you have a messy budget.

For nurses who are looking to come into New Jersey or to leave New Jersey by endorsement of their license, that's problematic. Two days after Mr. Lee issued his letter, I received an e-mail from a colleague who had moved to Delaware; she's an advanced practice nurse. She had been waiting since March to get paperwork from the Board of Nursing so that she could apply for licensure in Delaware. And it was only through her e-mail to me, as a colleague; my contacting our CEO, Judy Schmidt; she contacting the representative at the Board of Nursing, did she e-mail me back within seven days and say, "Thank you. I got my endorsement." But the Board of Nursing in Delaware told her that they will no longer work

with New Jersey; and they make all New Jersey nurses get their own paperwork because of the delays and the lag times.

So we have a few recommendations.

We need to aggressively work to fill the open positions. I'm going to tell you that there is a stereotype that's been around as long as I've been a nurse; and that is, nurses are secretaries. You have a job title called *Executive Secretary*, and I understand you have no applicants for that right now.

There are no items for management. So you call him an *Executive Director*, but their title is *Executive Secretary*, and they have no management responsibility, no budget responsibility. Why have them? Just to oversee processes? I wouldn't call a dietician a *respiratory care worker*.

The current posted job description for the Executive Secretary has been downgraded. It previously required a BSN in Nursing, with five years' experience in either leadership or nursing education. It now requires a bachelor's degree, preferably in nursing, with some kind of nursing experience. That's a leadership position to oversee nearly 200,000 licensees in the state? Mr. Lee said, in his letter, it doesn't take a nurse to oversee nursing. So I went onto the Board of Medicine's website; they have an attorney who is their ED, but every one of their divisions is filled by an MD. We have one nurse and two part-time consultants, paid hourly, not to exceed 20 hours a week.

We believe that not all of the employees need to be nurses; but you need nurses, with the appropriate degrees, overseeing the different functions within the Board: Discipline, Education -- that should probably be doctorally prepared -- Licensing. And you are going to have to have some in

your Educational track who can go out and do the site visits at these schools of nursing. Do they have the appropriate equipment? Do they have the appropriate space? Are they using the most current teaching modalities?

And then there's the outsourced call center. Calls are taken by an outsourced call center, which oftentimes provides incorrect answers to the callers -- answers about licensing procedures, answers about continuing education. Many a nurse has come to our association -- oftentimes they start with us, because they think we're the Board of Nursing since we're the *State Nurses Association* -- and they say that they have been told that all of the continuing education hours -- which are mandated in statutes -- are not acceptable by the Board of Nursing. Why is that? Because they have taken accredited nursing continuing education programs under the American Nurses Credentialing Centers' program, so they get contact hours. The outsourced call center tells them it has to be IACET; no other credential will work. Well, we had to investigate that. The IACET is an approver for ANCC. So what you have is, they've missed a step in the loop; they're giving wrong information. Nurses are then distressed when it's time to renew their license and they're told that their education doesn't count.

So we know that of the money that's come, \$5 (*sic*) of each license goes to the New Jersey Collaborating Center for Nursing. That is housed at Rutgers University. And \$600,000 of the fees goes to support the Recovery and Monitoring Program for nurses who are suffering with addictions or mental illness. We have over 500 nurses in that program.

So we would ask that there be a clear expenditure reporting of where these monies are going, how they are being used. And we also think that, perhaps, if the outsourced call center cannot prove their metrics in

terms of quality, cost, and accuracy, perhaps the salary of one or two people on the Board of Nursing could take that back in house.

Thank you.

SENATOR GORDON: Thank you, Dr. Evans. Thank you all for some very specific and actionable recommendations that we will certainly look at.

One question I have relates to this Executive Secretary job description. Do you know when that was downgraded or changed?

DR. EVANS: For Dr. Carolina's hiring, it was BSN; the new posting--

SENATOR WEINBERG: It was what?

DR. EVANS: It was BSN -- Bachelor of Science in Nursing. For this current posting, it's now a bachelor's degree, preferably in nursing.

SENATOR GORDON: Okay; so it was relatively recent.

Any other questions for this panel? (no response)

Seeing none, thank you all very much for helping us understand the impact of these organizational problems on the community.

ALL: Thank you.

SENATOR GORDON: I am going to call up another panel. I'm told that we need to recess to get to a voting session in about 15 minutes or so. So I would ask, just given the time pressures, that this panel make brief presentations, if possible.

We're going to hear from two individuals. They are -- they bring, I think, a unique combination of skills, in that they are both

attorneys and registered nurses. And I'd like to bring up Kathy Gialanella and JoAnn Pietro.

I'm sorry; I left out the third--

**KEITH L. HOVEY, Esq.:** Keith Hovey, Senator.

**SENATOR GORDON:** Could you identify yourself, just for the record?

**MR. HOVEY:** Keith Hovey, also a nurse-attorney.

Thank you.

**SENATOR GORDON:** Whoever would like to start; please.

**KATHLEEN M. GIALANELLA, Esq.:** Thank you, Senator Gordon; and good morning to all of you.

Thank you for allowing us to be here today.

All three of us are nurse-attorneys.

I have a script, but I'm not going to go into it because I've heard a lot of what was said this morning, even though I'm a little hard of hearing. And I think it's covered many of the salient points.

But the three of us have been nurse-attorneys for a number of years; I myself for over 30 years. And the vast majority of our practices have been before the Board of Nursing, representing the various licensees -- registered nurses, licensed practical nurses, advanced practice nurses, the home health aides, even schools of nursing -- in an effort to defend them, if they happen to be the subject of a disciplinary matter.

I think we're very, very proud of the fact that Dr. Murphy, and Dr. Hart, and Dr. Carolina have come forward with the issues because although we see this from the outside, we definitely see that there are struggles. I myself have gone to the last two annual board meetings and

heard information about the budget and the concerns that have been raised about that. I remember that Dr. Murphy, at the last annual meeting, said they couldn't even get a printer without getting authorization for a printer -- or were having difficulty getting that. So it's a problem.

I myself, in doing disciplinary work, have been concerned. We do have the Health Care Professional Responsibility and Reporting Enhancement Act, which is the *Cullen Law*, which was mentioned this morning. That's been in place since 2005. I think what I have seen is an exponential increase in the number of disciplinary cases that the Board has had to handle since that law became effective. There were two sets of regulations that were passed -- one in 2011; one more recently, just six months ago -- so the uptick in the disciplinary cases has really been a troubling situation. And I know the Board struggles with that.

And so that's something that -- I don't know if anything could be done about the Cullen Law; but certainly, as Ms. Twomey mentioned earlier, there's a lot of collateral damage that's been taking place; a lot of unintended consequences because of that law.

And the other thing I wanted to mention has to do with nursing education. I do have prepared testimony, which I'll be happy to give you. The other point I wanted to make has to do with nursing education. I have a client who, for the last three-and-a-half years, has been trying to get a program approved. So that's kind of the flipside of the coin of where certain schools may not need to be open, but other schools do need to be open -- because we need to educate our young so that they can become nurses and they can serve our population here in the State of New Jersey.

So thank you very much.

SENATOR GORDON: If I could just interrupt for a second.

I am embarrassed to say this, but I'm advised that we need to leave for our voting session.

Are the three of you able to come back this afternoon?

ALL: Yes.

SENATOR GORDON: Okay; that's great. I apologize for this, but this is sort of the way the State House works. (laughter)

Our plan is to come back at 1:30; when we reconvene, we will hear from this panel, as well as four others. And we're-- And one of those panels will include Sharon Joyce, the Acting Director of the Division of Consumer Affairs.

So with your forbearance, I ask that we put this on hold while we cast some votes; and we will reconvene at 1:30.

So the Committee stands recessed. Thank you very much.

**(Committee recesses at 11:50 a.m.)**

**(Committee returns from recess at 2:14 p.m.)**

SENATOR GORDON: Good afternoon, everyone.

We're going to reconvene. My apologies for the delay in starting; we had some lengthy speeches on the Puerto Rico situation in the chamber.

Because Sharon Joyce has some scheduling issues, I am going to ask her to come up first; and then we'll return to the nurse-attorneys.

So I'd like to call Sharon Joyce, Acting Director of the New Jersey Division of Consumer Affairs. And she may well be accompanied by Stephan Finkel, Director of Legislative Affairs in the Attorney General's Office.

**S H A R O N J O Y C E, Esq.:** Thank you very much.

Good afternoon.

**SENATOR GORDON:** Thank you for being here. If you have a statement, please proceed.

**B. S T E P H A N F I N K E L, Esq.:** Thank you, Senator.

As you know, Steve Finkel, from the Attorney General's Office. With me is Acting Director Sharon Joyce. Sharon was named Acting Director, with Steve Lee's departure, on--

**UNIDENTIFIED MEMBER OF AUDIENCE:** (off mike) We can't hear you.

**MR. FINKEL:** Sharon was named Acting Director, with Steve Lee's departure, on September 6. On September 8, Sharon was meeting with Dr. Murphy and Barbara Blozen to talk about Nursing Board issues and the search for a new Executive Director to replace the departed Executive Director.

I'm going to turn it over to Sharon, who has much more to say on these things. We'll try to answer your questions, and ask you to keep an open mind. There are different perspectives on these issues. I suspect you guys have formed some perspective, but we have information to add as well.

One thing I do want to clarify -- because in this morning's testimony, there was an implication that could be drawn saying that there are three people in government representative positions working for the

Board of Nursing. And the implication that could be drawn is that they were political patronage hires -- these three individuals who are assigned to the Board. That is not the case. My understanding is they are qualified people who serve important functions. One of them was a temp who was encouraged, because of her excellent job performance, to pursue the government representative position.

So I just want to make clear that -- don't take-- Be cognizant that we're dealing with people and their reputations. There are good State workers and, as a long-time State worker who is not partisan, I take to heart the interests of people in not being unfairly characterized.

So with that, the Acting Director, Sharon Joyce.

SENATOR GORDON: Thank you very much.

And I certainly do appreciate your concerns. And I just want to reiterate the objective of this hearing is to get the facts; we understand that there are going to be different perspectives here. I would encourage you to respond to any of the things that you heard this morning; and if you think there is a different perspective that we should hear, we certainly want to hear it.

So thank you, and please proceed.

MS. JOYCE: Okay; thank you for allowing me to speak--

UNIDENTIFIED MEMBER OF AUDIENCE: (off mike) Turn on your mike.

MS. JOYCE: Oh, okay; sorry.

This is a new function for me. (laughter)

Thank you for allowing me to speak this afternoon.

What you've heard this morning, I would echo. This is a very busy Board with important responsibilities. Our numbers may be a little bit different: My information is that we have about 123,000 RNs, about 23,000 LPNs, and about 8,500 APNs; in addition, 62,000 Certified Homemaker-Home health Aides, with about 9,000 being added each year.

It is also, as you were told this morning, a Board that is seeing about 250 disciplinary matters each month on its agenda. And it is because of the diligence of the Board members who have been on the Board that we have been able to continue to, I believe, meet the public needs that this Board fulfills.

As you heard this morning, there is also a responsibility to review school programs, and that is something a little unique to this Board. It is within its statutory authority to review school programs.

It is also a very active rulemaking Board.

I'd like to address some of the things that you heard this morning regarding the concerns raised by organizations and the Board members themselves.

In terms of the backlog of pending applications, we have moved a large number of applications in the last four months. We have licensed something like -- in 2017, a total of 7,807 RNs and 10,080 LPNs; 1,821 of the RNs, who have come to us by exam, and 896 who have come to us by endorsement since June.

There are two routes to licensure, and I just want to clarify them, if I might. There is the route by which somebody who is a recent graduate of a nursing program -- who applies to us via an application for exam; and then there are individuals who come to our state already having

attained a license in another jurisdiction, and those are coming to us by way of what we call *endorsement*. And there are different procedural ways in which those have to be processed.

But anytime you talk about how many license applications are pending, I think it's important to understand what goes into that bucket; what is a *pending* application?

These are people who have applied for licensure who have, essentially, abandoned that effort. They may have applied at one point in time, and they just haven't been, sort of, kicked out of the system. But there are a large number of active applications for licensure, to be sure. Since September we have attempted to conduct an audit of what is actually pending, and tried to focus on what I think some of the health care practitioners would call a *route cause analysis*. Why is it that some applications are taking longer than others to process through the system?

One of the things that we note is that there may be a number of people who apply to come to the state via the exam; and they need to register for the exam and get what we call an *authority to test*. And in order to go to take the -- I'm going to always pronounce this wrong -- the NCLEX (indicating pronunciation) -- whatever -- exam, which is administered by a company called Pearson VUE, you need to pay Pearson VUE to take the exam or they won't schedule you for the exam.

So we do find that there are some categories of individuals who haven't paid for the exam. They have authority to take the exam, but they're in our pending pot while we're waiting for them to pay for the exam.

The authority to test lasts for a period of three months. So if you don't take the exam or apply to take the exam within those three months, you have to reapply to Pearson VUE to do it again.

They also -- individuals who are recent graduates need to produce a letter of completion from their school program; and sometimes we see some delays in getting that kind of verification from the program.

If an individual takes the exam and fails the exam, they have to wait 45 days, under the Board rules, to take the exam again. Yet they're still in that pending number.

Then there are deficiencies that might appear. It's not an easy application; I will concede that. I took a look at both the exam and the endorsement application last night, which are online. But there's a lot of information that's asked for in those applications. They may need to produce photographs, information about child support, immigration status, student loan information, and discipline from other jurisdictions. And if any of those things come up as positive, they need to supply some documentation. So you get, sort of, a delay in terms of having to submit that information.

To those who are coming to us from other states, we need to verify that their license is in good standing in the other state. For many states, they can do that through a centralized repository called *NURSES*, which also requires the payment of a fee. And for a few states, including Pennsylvania and California, you have to contact those states directly and pay their fee to get verification.

So what I'm trying to explain is, it's a complicated application process. Those that are pending can be in any one of those categories.

If there are deficiencies in producing something as part of the application, that doesn't hold up the authority to test. We'll still issue the authority to test, and then catch the deficiencies after the fact.

One of the other pieces that we need as part of a successful application is, of course, the criminal history background check -- which is all digital now for people who are in New Jersey and those who live within 10 miles of our border. They can come in and do a digital fingerprint press. Those who are applying by endorsement from other jurisdictions -- they still do the old fingerprint -- what's it called? -- *ink and roll*. And so that process adds some time to the overall time in the pending category.

For the digitally scanned, we generally get the report back from the FBI within two to seven days. But for the ink-and-rolls we're talking, like, four to six weeks by the time we get them back. And all of that presupposes that everything is legit, and kosher, and meets all of the standards of the Board. There are certainly some applications where a question arises that the Board wants to address; the Board wants to ask questions about what may have happened to have led to, say, a conviction or arrest. And so that may -- that's also in that pending pot.

As part of this review -- this audit that we've been conducting -- we've been thinking about ways that we might even expedite applications even more. We think the application-- We want to take a look at the application itself to see if the instructions are as clear as they could be about what steps you need to take, and in what order you need to take them; particularly the payment of the money for the exam -- as early as possible so we don't have any lag time there.

We'd like to try to communicate more with licensees, applicants by e-mail, rather than waiting for snail mail to get to them with notices of deficiency.

I think we also would find a benefit if we could partner with some of the educational programs; maybe bring together folks and tell them what the application will involve so that they can be resources within their schools -- so maybe look over the application before it launches to make sure everything is in order. That might save some time for a number of students.

And I think we'd be willing to try to give greater outreach to organizations. I know we have someone who is going to go attend the convention next week and talk about issues that pertain to nursing.

We are continuing to address technological upgrades that will allow for more things to be uploaded. But every once in a while you hit a glitch that you need to bring in the Microsoft folks to do an upcoding; and we're continuing to monitor to try to address anything that happens along that way.

I mentioned the difficulty with endorsements and awaiting the fingerprint roll. I think we also could be looking for those deficiencies earlier on so that we're not awaiting the return of the fingerprints and then looking for deficiencies. So I think it's a question of looking at the process and seeing where we can try to shore it up.

Obviously, today, you've heard a lot of concerns about understaffing at the Board. We do believe that we've made significant progress in terms of moving applications, and that we have resources available to meet those needs. We have a staff of about 30 to 31 folks

presently on staff at the Board of Nursing, and that's remained pretty consistent; since 2010, actually, we've had about that number employed by the Board. We have brought on nine temporary employees to assist with the application processing; and redeploy staff, as needed, when we anticipate that there's going to be a peak. Around graduation time we do have a group of employees who can move from different boards to address application processing.

The information that I have regarding overtime is that we have been approving overtime for, like, 30 out of the last 40 weeks. And I know that we've done a lot very recently to try to address the application delays. And in addition, we're in the process of interviewing three or four additional employees who will be dedicated to that function of reviewing applications.

Beyond that, we'll continually reassess the needs; and the things that have been brought up are certainly things that we're considering. We do have some additional nursing resources -- nurses -- employed beyond Deb Zuccarelli -- who, I would agree with Pat, is doing yeoman's service and is really a terrific addition to the Board. She began with the State as an investigator in the Enforcement Bureau, where we also have a number of nurses employed. And she really is a terrific addition, and we really appreciate her stepping up to the plate of being the Acting ED.

We also have -- and I think one of the attorneys began to speak of this -- it is a very busy Board in terms of Discipline as well. The number of 250 a month is not extraordinary. As was mentioned, though, that encompasses a whole lot of different things. It can be somebody who hasn't met their continuing education obligation, to somebody who punched a

patient. I mean, they really can run the gamut. But as with all our boards, to the extent that we seek discipline, we either will try to negotiate some sort of resolution that we think is protective of the public; or, if there's no consensual agreement, we need to file a complaint and hold a hearing. So the notion that people are losing their license and waiting for their day in court -- I'm not sure that that's consistent with the licensure process. It may be that there are employment consequences by virtue of having filed a *Cullen report*, so to speak. But in terms of the Board taking the license -- it may be frustrating to the Board sometimes, but we do need to provide a complaint and an opportunity to be heard.

We have instituted, over the last -- I don't know, maybe five or seven years; oh, more than that, probably about ten -- a fast-track process. We get information as a result of-- The criminal history background check enables us to get flagging information when somebody is arrested or convicted. When those reports come to us, and they appear to involve serious patient-related activity or serious drug activity -- things of that nature -- we have six Deputy Attorneys General who service the Nursing Board and provide legal services. One of them will reach out to the Board President to discuss that information, and we'll try to get a quick resolution to that case. And I think it's worked pretty well over the years. We've moved a lot of matters as simply as possible.

Vacancies: On September 29, the Governor appointed 10 new members; we do have 3 members who have been reappointed, so there is an-- And Barbara Blozen, who was here earlier, is also continuing on the Board. So we do have continuity. It's going to be a learning curve, though, for sure. And in fact, the new members may be coming to the Board

meeting tomorrow in Newark, and on the agenda they have a temporary suspension application to hear. But it is good to see those vacancies filled and to have a full complement of Board members.

Although there certainly were a number of vacancies, over time, resulting from resignations, there are only a couple of instances where the Board members who were on the Board were unable to meet a quorum. We really have had dedicated Board members who have come to the fore and have provided the quorum that we need.

With respect to the Executive Director position -- we have posted for that position; we have a slate of candidates who have applied. We're in the process of setting up interviews with those candidates; hopefully we'll be done with those interviews in the month of October. But the interview committee will be comprised of two Board members, and Deputy Director in the Professional Board at the Division of Consumer Affairs, and me. We ordinarily do two rounds of interviews; but because of the need, in this circumstance, to move as quickly as possible, we're planning to do one round and interview people as quickly as we can.

I think that's what I wanted to address. We do think that we have the resources, but we are always willing to consider if there are needs that are unmet, we're going to take those into consideration and try to address them, going forward.

Oh, I was happy to see Dr. Murphy this morning because I think, given her knowledge and her service, I think her participation in trying to acclimatize the new Board members would be extremely valuable; and Pat has willingly agreed to assist in that regard. So I think we can even enhance the continuity by allowing for some exchange between new Board

members and old Board members. We're going to do sort of a mini-orientation tomorrow, but we're going to need to revisit it again. Because it is a steep learning curve and this Board does have pretty important responsibilities, that's for sure.

So if you have any questions--

SENATOR GORDON: Thank you; thank you for your statement.

I agree that you -- the Board has terribly important responsibilities.

I have a number of questions -- one, is there any kind of internal program evaluation process in place to evaluate how well you're doing? Let me state the question another way. Would any of these changes that you've described occur if Senator Weinberg and I had not called a press conference at the end of July, accompanied by people representing your customers, and raised questions about the performance of the agency? I mean--

MS. JOYCE: I think there is a continual effort to assess how we're doing. What probably this focus brings is, you know, in terms of doing an audit, now, to see what's pending; causes us to look at what are the complaints that have come in. And I neglected to say it, but one of the things that we've also thought to do is create a separate e-mail account so that the calls regarding licensure status won't go to that -- to a call enter, but will come directly to a monitored e-mail account so that they can be answered by Board staff. I mean, that's something that really occurs to us as part of the audit and reviewing that. It's not that we're not continually looking at workflow to try to improve it; but it certainly helped to gel -- that

that was one of the things people were saying. So if we can do that, that may give people a quicker way to get a substantive answer, rather than being, sort of, put in line with information that won't really answer their question.

SENATOR GORDON: It's interesting to hear the various changes you're contemplating. Here's what we do know at this point: There appears to be widespread dissatisfaction with the performance of the agency; we heard that one state doesn't even bother to deal with New Jersey anymore. My sense is that if you were a private sector organization, you would be out of business.

I come away from this thinking that there needs to be, one, an audit by a third party of agency performance. The best approach may be to bring in somebody from the outside, like a Navigant or a McKinsey, to take a fresh look at the way processes are designed, the way the organization is structured, authority relationships, funding. I'm coming away from this -- and perhaps it's unfair for me to say this -- but it sounds like this organization needs a total overhaul, and it may be best for some outsider to give an objective assessment -- and an organization that might know what's done in other states. Which raises the question: You're talking about how you're trying to improve the performance. Have you ever benchmarked yourself against others states? Do we know how long it takes to process a license in California or Indiana?

MS. JOYCE: I can't say that I know that. (laughter)

SENATOR GORDON: You know, there's really no need to reinvent the wheel here; other states are, presumably, going through this process. Maybe the problem is that they have computers in others states,

and we're still using the technology that we do. I know that's at the root of a lot of our problems in New Jersey government.

MS. JOYCE: Actually, we have introduced technology; and sometimes it's the adjustment to the technology that causes us some -- a glitch along the way.

You know, I think we are attempting to do the kind of analysis that you're suggesting, and coming up with proactive things that we can launch as quickly as possible to address the issues. You know, there are people who have been working at it; I think we need to illicit some input from the people who are actively working about what they think would improve the process.

In terms of your question about benchmarking-- I'm sorry; I'm just--

SENATOR GORDON: I understand that you're just--

MS. JOYCE: I've been here since September 6, so-- (laughter)

SENATOR GORDON: --coming in here; I understand.

Have you been able to form a personal opinion about the staffing levels? Do you feel that staffing levels are insufficient, or are they sufficient? What's your--

MS. JOYCE: I think they're sufficient, but I also think that it requires flexibility to redeploy folks when we need to. We are looking at hiring an additional three to four individuals for, really, application processing dedication. And I think bringing on a permanent Executive Director, so that Deb can focus back with Discipline, will be a very beneficial thing.

So I'm not saying-- I mean, those things should happen; and I think those-- In addition to the fact that I think we have stepped up and met some of the challenges within the last four months or so, I think we're doing okay. We're staffed appropriately, or we will be, when we finish out the interviews for ED and for the additional application individuals.

SENATOR GORDON: Okay.

Any other members have some questions?

Senator Weinberg.

MS. JOYCE: And I would say I'm serious about trying to consider whether we need to bring additional professional staff to the fore. I mean, we will really take a look at that; I think--

SENATOR GORDON: Particularly the nurses.

MS. JOYCE: Yes. But I think it is important to distinguish the functions that are performed by the office. I mean, when we're talking about schools -- yes, I think absolutely bringing individuals who are knowledgeable about nursing curriculum, nursing programs is vital. When we're talking about assuring that the documentation pertaining to child support or integration status is included in an application, I think we can do that with personnel that isn't as familiar with nursing concepts. I mean, there are different roles for people to play in the organization, and I think we should be getting input on what functions need to be done by what people. But there is, particularly with Discipline -- and we do have a nurse who is involved in the disciplinary process, and with the Education issues. Those certainly are things that would greatly benefit from nursing input.

SENATOR GORDON: Okay.

Senator Weinberg, did you have some questions?

SENATOR WEINBERG: I do.

First of all, for Steve Finkel. You brought up -- or, I guess, wanted us to make sure we were aware about these so-called *government representative* appointments. Is it true that these government representative appointments -- at least, as far as the Board of Nursing is concerned -- do not report to the Executive Director?

MR. FINKEL: My understanding is, they are Division employees, assigned to do the work of the Board of Nursing, who report up the chain to the Division. And that certainly is something that Sharon and I discussed at lunch. That's an internal thing, and it's something that we can look at to see whether it makes sense.

SENATOR WEINBERG: So they do not report to the Executive Director--

MR. FINKEL: That's correct.

SENATOR WEINBERG: --under the current process?

MR. FINKEL: They are not Board of Nursing employees; they are assigned to the Board, and those positions work for the Division, though; yes.

SENATOR WEINBERG: Thank you for the "yes." (laughter)

MR. FINKEL: Yes.

SENATOR WEINBERG: Okay.

Ms. Joyce, how long have you been in the Acting Consumer Affairs position right now?

MS. JOYCE: Thirty days.

SENATOR WEINBERG: Thirty days; okay.

MS. JOYCE: This time.

SENATOR WEINBERG: Yes. And tell me about your past?

MS. JOYCE: I--

SENATOR WEINBERG: Not your whole past; just how many times-- (laughter)

MS. JOYCE: Well, I've been with the State for 38 years; 36 of that has been in professional -- representing professional licensing boards. I'm Deputy Director of the Newark Office of the Division of Law, and I have-- Fifteen years ago I served as an Acting Director of the Division of Consumer Affairs during a change of Administration. I did two other, short stints, I think in 2012 and maybe 2014, when they were changing -- you know, before the Director got through the gauntlet. So I've been around professional licensing, certainly, for a long time, but more from the perspective of the legal representation.

SENATOR WEINBERG: Okay. Now, I thought I heard two different things from you: One, that you have -- that the Board has the resources it needs to carry out its responsibilities appropriately; and the other was, yes we need to hire new people. Am I wrong in what I heard?

MS. JOYCE: Well, I think what I'm saying is, I think we have met the challenge; we have sufficient staff, and we will be in a much better place when we hire the three to four additional people to do applications. Those have already been posted; we have already initiated the interviews. And of course we need to fill the Executive Director position. I mean, that goes without saying -- that we-- That's a position that has to be filled for the ongoing Board. And you know, we've set up a search committee and we're setting up interviews now. So I think with those in place, I think we are in a good position.

SENATOR WEINBERG: So we need an additional three to four people who you are in the process -- some process of hiring right now.

MS. JOYCE: Yes.

SENATOR WEINBERG: Okay. I mean, I know we're-- You know, I understand the position you're both in, and I know you like to present it in the best light. But I would really like to get to the bottom line of what's gone on until these two Board of Nursing members came forth and acted as *whistleblowers*, or *transparency experts* -- however one would like to describe them.

I am indebted to Dr. Murphy that she is willing to come forth and help work with the new Board. I think that just adds to what we know is her devotion, along with Dr. Hart, to make sure that this Board operates well. And I think it was a great idea, Ms. Joyce, that you obviously reached out to ask her to participate in that manner.

I'd like to ask a few more questions, based upon testimony we heard this morning.

The so-called *Operations Manager* -- is that somebody who is currently functioning; and if they are, to whom do they report?

MS. JOYCE: They are still functioning; dedicated primarily to the Certified Homemaker-Home Health Aide Unit. I believe he reports to the Assistant Deputy Director and the Deputy Director on the Professional Board side.

SENATOR WEINBERG: Well, there is no Deputy Director.

MS. JOYCE: No, no, no; the Assistant Deputy Director for the Professional Boards.

SENATOR WEINBERG: For Consumer Affairs; okay.

All right, so that position does not report to the Executive Director of the Board of Nursing. We know that the so-called *government representatives* -- whatever they are -- don't report; and now the Operations Manager-- Although Mr. Lee tried to indicate -- in the letter he wrote to us on the way out the door -- that they had these positions staffed up; without telling the whole story -- that they don't report to the Executive Director. Therefore, they're not jobs that whoever the current ED was -- Dr. Carolina -- and whoever the new ED will be, doesn't have any control over those positions.

The third thing I heard this morning that I would like to comment on is the issue of budget. We were told that there is -- that there are regular meetings; we were told in Director Lee's letter that there were regular meetings between the Board of Nursing -- I assume the ED -- and the Administrative Budget Office. We were told this morning, that, no, comes December, somebody comes in and says, "Here's your budget," they complain, and then this somebody leaves. So are there regular meetings between the Board of Nursing -- the ED, whoever -- and the so-called administrative people who are in charge of the budget?

MS. JOYCE: I can't-- I don't know whether there were in the past. I know that the individual who plays that role within the Division is more than willing to meet with Executive Directors and to take input from them in terms of how they see the vision of the Board. She does visit the Board meetings, at which they review the budget. But we can certainly expand the availability of this individual to meet with Board members, to meet with the Executive Director.

SENATOR WEINBERG: Well, maybe we just expand it to what Steve Lee said already exists. So perhaps we could just expand it to that stage. You know--

MS. JOYCE: To be fair, I'm not sure that there aren't regular meetings with--

SENATOR WEINBERG: Right.

MS. JOYCE: I mean, there are 47 boards. There may be some that do have regular meetings. I just don't know, having been here for, kind of, a short time in this capacity. But I think it is something that we can certainly institute.

SENATOR WEINBERG: Well, it sounds like it might be a good idea -- that the Board of Nursing itself gets some input into what its budget is, since obviously there's a big difference of opinion on whether they've had adequate resources, and the fact that they generate much more money than is actually spent on the operation of the Board.

And this is a little bit off the subject, but I just want to comment. As you said, there are 47 boards; and I checked -- the Board of Nursing does have an online application processes, which is a good thing. There is, I think -- of the 47, only 5 boards have online capability. All the other applications are done by paper with paperclips. So that seems to me to be an area that--

SENATOR GORDON: That's a much bigger issue.

SENATOR WEINBERG: As I said, it's slightly off the subject of this, but as long as we brought up technology I thought I would comment on that.

MS. JOYCE: In some of the applications, it's an easier lift because the application is -- doesn't have as many supporting documents that need to be uploaded. So I think there have been recommendations along the way as to where you introduce it; and obviously for nursing it's -- the numbers are so big that it, sort of, compels us in the direction of trying to put that one online.

SENATOR WEINBERG: And the next question is maybe a little philosophic, but I would assume that the staff morale -- based upon what's happened with the top management and with the Board itself -- is not terrific. Would that be an accurate statement; and is it something you're working on, or that you've addressed? I mean, you've been there for 30 days and I'm assuming it's the longest time since you were there 15 years ago -- from what you say you--

MS. JOYCE: I haven't yet gotten to the sixth floor to talk to the folks who are working there. But it is something that I expect to do shortly. So I personally can't comment on morale, but--

SENATOR WEINBERG: And what is your prediction for when these three or four new staffers will be onboard and functioning?

MS. JOYCE: I would say within a couple of -- a month or so. I mean, we need to get the interviews in; I think we've already gotten approval. So I think we're headed towards that in a few weeks to a month.

SENATOR WEINBERG: Okay. And if you would, I would like you to supply to this Committee, when you can, the names of the people in the so-called *government representative* jobs. Are they covered by Civil Service? And the Board of Nursing -- you don't have to do that right now, but if you would supply it to the Committee. (PA microphones squeal)

Is that my mike, or yours?

MS. JOYCE: Is that me?

SENATOR WEINBERG: All right; maybe that's better.

If you could supply that -- the names, the titles, and the salaries that go along with those positions; and to whom they actually report.

MS. JOYCE: Okay.

SENATOR WEINBERG: Okay, thank you.

SENATOR GORDON: Thank you.

Do we have some other questions?

Senator Kean, and then the Assemblywoman.

SENATOR KEAN: Thank you.

First, thank you, Mr. Chairman.

And through you, a lot of the members of the panel responded regarding the management structure. Has anything changed within the Division of Consumer Affairs regarding the management structure, the reporting structure -- over the course of the last 10 or 15 years -- regarding this Division or any Division?

MS. JOYCE: Yes.

SENATOR KEAN: Okay.

MS. JOYCE: Although I don't -- I can't give you a chronology of it, it is a large Division and there are times in which there have been Directors who have looked at the structure and have moved things around. I know -- it's going to be hard for me to remember the years -- but I know when Larry DeMarzo was there, we did something where there were teams of boards that were kind of grouped together, and they had some reporting function up to the Deputy Director through those teams. There was -- the

creation of the Assistant Deputy Director I think has been within the last 10 years.

But there's, you know, a continual assessment of what will be the best way to move forward, and that's sometimes informed by what technology is coming in, and who is going to be in the position to try to introduce that into boards that may, at first, be somewhat resistant -- board staff -- somewhat resistant to new technology, because it changes the way that they've been used to doing things. So how you structure it may be dependent on sort of what's on the forefront, going forward.

SENATOR KEAN: Okay. But in the last five years has there been a major change in the reporting structure regarding the employees within the Division, or within the--

MS. JOYCE: So five years would take us back to Calcagni.

SENATOR KEAN: Ish, yes; ish. (laughter)

MS. JOYCE: There was a reorganization under Calcagni of some of the investigative functions. But I don't think the actual--

SENATOR KEAN: Reporting structure -- who the employees report to within the Division; or--

MS. JOYCE: Right. I think that's remained pretty constant for the past five--

SENATOR KEAN: If I may, through the Chair, if you can get us a little bit of-- Maybe not going back 15 years, but if we could just get a sense of the reporting structure and the way that it's changed.

MS. JOYCE: Okay.

SENATOR KEAN: Not today--

MS. JOYCE: Thank you. (laughter)

SENATOR KEAN: --but over time, though the Committee.

SENATOR GORDON: Over the last 10 years.

SENATOR KEAN: Yes; yes, please.

And if I may, just for a quick second -- with respect to presenting things in the best light, if I may just reference an earlier sentiment.

Mr. Finkel, as well as every member of the Division in which he works, has always presented everything in a really factual and legal basis in every interaction with this Committee. Any potential allusions in any other direction, I would infer that the AG's Office has always been forthright and direct with members of this Committee. He has done that historically, through Republican and Democratic Administrations, and it is a professional organization, through and through.

So please, let's focus on the facts.

Thank you, Mr. Chairman.

SENATOR GORDON: Okay.

Any other?

Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: Thank you.

I just have two comments. One is, we heard earlier this morning about the concern for the schools of nursing -- the schools -- and that it appears to me that one issue is that you have one part-time person who can only do 20 hours per week on this issue. If they were to present a strategic plan about the need for that person to go to a fulltime position, or to hire someone else who would be a fulltime position, based on the importance of that position -- again, if we find out that we have schools that

aren't being licensed because they can't get through the process, or those that should actually lose their ability to educate the students who are really wasting the students' money -- would that be something that the Division would be willing to take a look at? Because it seems that we've heard here today that that's really an important function of the Board that may be -- we may have some -- we're not getting adequate support in a critical part. Because they've divided it out into Education, Licensing, and Discipline. And from my perspective and as a nurse -- and Education and Discipline are two areas where it sounds like they should be probably a fulltime Executive Director. So if they were to present a strategic plan, would that be something that you would be willing to take a look at? Because I know you said you're hiring three more staffers as part of licensing. But this is such a critical part, is--

MS. JOYCE: I think it's one of the things that I think we should be considering, looking at whatever information comes forward on it.

We are-- It's helpful that some of the new members who are coming to the Board have some backgrounds in education.

MR. FINKEL: Which, of course, was your legislation, which the Governor signed.

ASSEMBLYWOMAN MUÑOZ: Right, absolutely.

MS. JOYCE: The nurse educators.

ASSEMBLYWOMAN MUÑOZ: Yes, absolutely.

MS. JOYCE: So, I mean, that's a beneficial thing. So maybe they can take a look, too, at what it is that the process involves now. It may be that some of our regulations need a relook to see whether we're

giving too many chances. I mean, it's both a policy issue and a staffing issue--

ASSEMBLYWOMAN MUÑOZ: Right.

MS. JOYCE: --that we need to--

ASSEMBLYWOMAN MUÑOZ: And you know, you go to what the comments were this morning, and it-- We have students wasting money, which is what we don't want to do.

My second comment is regarding-- When you asked if there were benchmarks relative of other states. And I think that's an important question to ask. And I have -- my best friend and roommate from college is the head of professional development at Beth Israel in Boston. And I think that your suggestion about having a more direct line to answering these questions into the Board of Nursing is a very good one. They have found -- she works in Massachusetts -- and they have outsourced this panel for questions, and that becomes a problem. Because as has been-- I think we have shared this morning -- the licensing of nursing is very complicated, and there are so many mis-- I think there are misunderstandings about one piece; what one document means in one state to another state. So I guess it's a two-prong thing. Number one is, I think that your suggestion is a very good one; and number two, I think that, with anything, we compare ourselves to others states and we look to other states on how they best do something. I'm on the Council on End of Life Issues, and we're, right now, looking at that-- New Jersey does a very poor job of end-of-life care, relative to other states. So we're putting together our committee -- how we can best put together -- you know, modeled after other states.

So this might be something that we might want to take a look at -- is how other boards of nursing, that have equal numbers of nurses and equal responsibilities -- how they do it. Because that's not a bad-- That's an excellent question, and I think it's a good thing for us to take a look at. I never think that we have to reinvent the wheel. If somebody is doing a really good job in one regard, I've been told that we don't outsource those questions to an out-of-state agency. I think that's correct?

MS. JOYCE: Not to an out-of-state agency. We have, like, a call-- You're talking about the questions about applications?

ASSEMBLYWOMAN MUÑOZ: The call center, yes.

MS. JOYCE: We have a call center. But I think you're right. Some of the questions about applications are so specific to the individual, they really need to be addressed by someone who has access to the screen that's going to show you the status.

I was also thinking in regard to your comment -- we have people who get information from other states about licensee discipline in other states. So they have connections already with somebody in the office, you know, in New York. And it may be a good time to say, you know, "Reach out to your contacts and see how it is that they may have grappled with an issue." And I think we can do that; I mean, we--

ASSEMBLYWOMAN MUÑOZ: Well, you know, we're all nurses; most everyone in the audience is a nurse. And nurses practice on evidence-based practices, as do all medical people. So, you know, what is best practice for the Board of Nursing should be evidence-based practice. And again, using data and information from other states is, I think, a very

good approach to look at where the areas are where there are difficulties and how we can improve that.

So that's my comment.

Thank you.

SENATOR GORDON: Thank you.

I just have a couple of questions.

First, a comment. And if I were a management consultant retained to do a management audit of this organization and make recommendations on changes in processes, I would be going out to other states and interviewing people in Massachusetts, or Georgia, or wherever; and the national councils, state legislatures, the Council of State Governments -- some umbrella organization -- to try to understand what are the best practices out there in licensure. I wouldn't be surprised if someone has already done that. But that would be a useful exercise, I think.

A couple of questions. One, when was the decision made to outsource the call centers? I know our offices are getting calls of complaint that they just can't get through to the agency. Are you able to-- Oh, you know?

MS. JOYCE: I bet the creation of the call center was a long time ago; like, maybe, 12 years ago

SENATOR GORDON: Okay.

MS. JOYCE: I think it, really, was when Reni Erdos was Director of the Division of Consumer Affairs -- we talked about creating a call center. And then, you know, depending on the nature of the question, some questions can be readily handled by the call center; some questions

are too specific and really need to, sort of, be redirected to the individual unit that is more knowledgeable.

SENATOR GORDON: Were you involved at all in discussions about filling the new Board positions, and did you specifically have conversations with Dr. Murphy or Dr. Hart?

MS. JOYCE: In terms of the preposting?

SENATOR GORDON: In terms of them -- their continuing on the Board. I thought I heard that they had no inkling that they were going to be removed.

MS. JOYCE: Oh, no, I was not. I mean, I talked to Pat when she called me after she had gotten a call. But I was not involved with that.

SENATOR GORDON: Do you know who -- how those decisions were made about replacing the Board? Were they all coming out of the Appointments Office or the Governor's Office?

MS. JOYCE: I would assume so. I don't--

SENATOR GORDON: Okay.

MS. JOYCE: It wasn't in my bailiwick. (laughter)

SENATOR GORDON: I understand.

Can you comment-- I mean, we heard this morning that the educational requirements for the Executive Director of the Board of Nursing have been, as they were described, *downgraded* -- or it isn't a requirement for a BSN degree anymore. Do you know why that decision was made?

MS. JOYCE: I think there was just a desire to get a broad collection of résumés in to take a look at them. I'm not -- I think we're not

necessarily interviewing all of the candidates, but I think we have a good selection of people with great qualifications.

SENATOR GORDON: Okay.

Do you know the circumstances under which the decision was made to outsource the educational consultants?

MS. JOYCE: The educational-- The consultants to the Board?

SENATOR GORDON: There are-- As opposed to staff who are assessing the educational institutions.

MS. JOYCE: Yes; there was a period of time, many years ago, where we needed -- we wanted to bring on some expertise; and there was some sort of a hiring freeze at the time. It was probably at least 10 years ago. And one of the routes by which we could bring on expertise -- not just in the Nursing Board, but it was, I think, Dental and Medical -- there were consultant positions that were created. I mean, we went through a whole search, advertised, got résumés in, and selected people to be -- to fortify what we had at the time.

SENATOR GORDON: Okay.

MS. JOYCE: But it was quite a while ago, I think; and we've had consultants ever since.

SENATOR GORDON: Do any other members of the Committee have questions? (no response)

All right, I want to thank you for this hearing -- for sitting here at length and responding to our questions.

And I am sure that there will -- we will follow up with some of the requests that Senator Weinberg and others have made, and I'm sure there may be some other questions. And we appreciate your being here.

So with that, thank you very much.

MS. JOYCE: Thank you.

SENATOR GORDON: At this point, I'd like to bring back our attorney-nurses to pick up where we left off this morning.

I apologize if this has been a little disjointed.

Feel free to pick up where we left off.

MS. GIALANELLA: Good afternoon, Senator Gordon, and members of the Committee.

Just to reintroduce--

SENATOR GORDON: If you could just identify yourself, again, for the record.

MS. GIALANELLA: Yes; I am Kathleen Gialanella; I'm an attorney and I am also a registered nurse. I have been practicing law for over 30 years; and most of the work that I do has been before the Board of Nursing, representing licensees in disciplinary actions and schools of nursing.

And I already testified this morning; two of my colleagues are also here, Keith Hovey and JoAnn Pietro, who are also nurse-attorneys. We are also all members of the American Association of Nurse Attorneys. And Keith will speak about a letter that we sent and some of our concerns with regard to the Board.

MR. HOVEY: Due to time constraints, my colleague JoAnn is going to testify first.

SENATOR GORDON: Okay.

**J o A N N P I E T R O, Esq.:** Good afternoon.

Thank you for having us today, and thank you for taking the time to listen to the issues regarding the Board of Nursing.

My name is JoAnn Pietro, and I am a registered nurse and an attorney. My law practice is focused in representing licensees before the Board of Nursing. I also practice as a registered nurse.

I am here today in my capacity as a nurse, as an attorney, and as a representative of The American Association of Nurse Attorneys, our New Jersey Chapter.

For me, I would like to express my outrage and great concern for what I perceive to be the pilfering of the New Jersey State Board of Nursing's treasury by our Governor. Our Board is hampered because the money that we bring in through licensees is not available for the Board's use.

It's my understanding we generate about \$13 million in fees; but what is appropriated back to the Board is about \$2 million.

Our Board licenses the largest number of health care workers in this state. While we pay a fair amount in application fees and biannual renewal fees, the money is not there to conduct the business of the Board. Even though we have ample revenue, the professional Board is hampered and cannot carry out its duties or responsibilities. The Board is there to protect the public and to govern the practice of nursing, and they're doing neither very well, despite all of their heroic efforts.

I perceive that the Governor, who is taking our money, is denying us the ability to carry out these very important functions. It's unfair to licensees, it's unfair to the citizens, and it's just wrong.

When we were talking about those schools, I'd like to address it from another perspective; in that, as an attorney, I have counseled people who have gone to those schools that should be shut down, and instead they are unable to pass licensure exams. And they come to me for counseling as to whether or not they can do anything, because they perceive they've been scammed by these schools. And unfortunately, there's nothing much these individuals can do. So they have spent money, not able to pass an exam, and they essentially go nowhere; and some of them can scrape money together again to go to another program and hopefully become licensed one day, but it's at great cost to them.

Another problem for our Board, as you've heard, they handle over 250 disciplinary cases a month. I would like this Board to know -- before the Cullen Law came into effect in 2005, our Board handled only, approximately, 650 complaints per year. So we have exponentially grown those disciplinary numbers, and one of the reasons is because of the Cullen Law. I think the Cullen Law is overly harsh and it's punitive. But because we have that mandatory reporting by health care entities, our Board has become inundated. Due to the lack of staff they are ill-equipped to handle these cases. At one point, I think, when Dr. Murphy came to the Board, we had about 84 staff members. Over time, it dwindled down to about 50; and now we are at a critically low number of 31 staff members, with only having one registered nurse there, who is Debbie Zuccarelli; as well as only two part-time staff nurses who pitch in on other issues, which are Education and reviewing medical malpractice cases that get reported to the Board.

But this backlog, due to the disciplinary cases -- this is what is driving our Board. They must focus on those disciplinary cases instead of carrying out the business of the Board.

But I will tell you from the time a licensee is reported to the Board, it can be anywhere from eight months to a year-and-a-half before the Board contacts the licensee. Then, once they get to interviewing the licensee, or get the licensee's side of the story, it can take another three to six months before there is an outcome; sometimes longer.

The Board attorneys are handicapped; the Board is delayed in rendering determinations and being able to follow through on closure. And I have seen some cases never get closed.

So our public is in jeopardy, the licensees are in jeopardy. It is just an awful situation.

Speaking as a nurse who practices, or an attorney who practices regularly before the Board, some of the things that could help would be a modification of the Cullen Law, allowing for a permissive reporting, or allowing a delay or an expanded time before employers have to report to the Board -- because they're obligated to report within seven days. And if they had additional time, there might be cases that never get reported to the Board. And in fact, we have been successful in sometimes representing licensees at the employment level, where employers do say, "Oh, we made a mistake. We shouldn't have fired that nurse." But unfortunately, because the reporting has been made, the reporting takes on its own life and is, eventually, reviewed and adjudicated by the Board.

So again, there may be cases that didn't even need to go to the Board in the first place if we could have a modification to the Cullen Law.

But I want to make it clear that because we do not have the money available to our Board, the Board of Nursing is not able to do its job; and they're barely holding on doing the disciplinary actions, and really not getting to the other things that need to be done, as everyone else has addressed today.

Thank you.

SENATOR GORDON: Thank you.

MR. HOVEY: Hello, my name is Keith Hovey; I'm also a nurse-attorney. I'm with the law firm of Szaferman, Lakind, Blumstein and Blader. I'm also a member of the American Association of Nurse Attorneys, along with my colleagues testifying today; as well as the fact that I am a Board member on the Congress on Policy and Practice with the New Jersey State Nurses Association.

I'd like to just, quickly, address a couple of additional points with respect to licensure, both as to new license applicants, as well as the disciplinary process.

In our role as attorneys, it is our job to advocate for our clients. And part of our job in advocating for our clients is testifying here today, to give you an appreciation as to what it is those nurses, who are before the Board, experience and suffer through while these matters are pending into perpetuity.

So let's put this in context of civil litigation and criminal litigation. In civil litigation, if an allegation is made of improper practice, medical negligence, or medical malpractice -- as it's commonly referred to -- you have two years to bring a claim, otherwise it's statutorily barred. If you bring a claim within that two-year period of time, you are assigned a track

assignment; at which point in time you then have 300 days to conduct a discovery you need to prove the allegations in a complaint -- which means you get documents, you take depositions, you have settlement negotiations, you mediate, and then you get a trial date, right? So we're talking a span of within three years you know, as a licensed professional, whether or not you have civil liability exposure.

If it is a criminal matter, there is an indictment; there are also statutory limitations as to when certain claims can be brought. You have constitutional protections, whether they be the Fifth and Sixth Amendments.

We do not have those same protections in external time constraints, as it relates to disciplinary matters against the license. So as my colleague testified as to the timing, there are no mandatory requirements other than the initial reporting time periods as set forth under the Cullen Law. After that, once a complaint is filed or a matter is handed over and reported to the Board of Nursing, that license issue can sit in virtual perpetuity, and the nurse is practicing under a cloud on their license. They are uncertain, then, as to whether or not they should quit and apply for a new job; whether they can go back to school; whether they can apply for licensure in other states. Because they have no idea, or they are concerned as to what the disclosure of a pending, yet uncertain, disciplinary matter will have on their future.

We are forcing nurses out of the nursing profession, simply by the fact that they have uncertainty that other areas of the law provides them by way of the civil and criminal context. So without these external time constraints that force these matters to be brought in a certain period of

time, a nurse has no certainty and is completely and totally unclear as to when there will be, ultimately, a resolution as to what will happen with their license. And not only does it fail to serve the nurse, it fails to serve the public. And by not serving the public, what we are doing is, we are exposing them to potentially dangerous practitioners. We are exposing them to individuals who -- whether either intentionally committing poor practice, may be the byproduct of a school that shouldn't be licensed, or just simply a deficiency in their practice -- it could be three to four years before corrective action is ultimately taken by way of the Board of Nursing.

And think about the number of patients they will have touched in that timeframe. If you are an ICU nurse, you have one to three patients a shift, working three to four days a week; fifty weeks a year. And multiply that times two to three years before disciplinary matter.

Imagine a nurse in a nursing home, on a night shift, supervising two LPNs or Certified Nursing Assistants; where you have 20 to 30 patients, four to five times a week, right? I mean, the numbers can be staggering.

And let's put that into a greater public health context. Now we're talking about a deficiency in a nurse's practice whose Board disciplinary matter isn't being addressed. Now we have their patients potentially suffering medication errors; nosocomial infections as a result of poor aseptic technique. So now we have prolonged hospitalizations; we have increased mortality and morbidity rates. These are all consequences of the failure to address, in a timely manner, disciplinary matters brought before the Board. And it is no fault of the Board when they are understaffed and not properly funded.

Both the Board, and even the nurses before the Board, often want the same thing, which is to serve and care for the public in a safe and effective manner. And unfortunately, we are not in that position to do that today.

So instead, we have active nurses unable to move forward with their profession because of the uncertainty as to their license; and a public that may lack confidence in the nurses because those few practitioners, who need corrective action or need to have their license disciplined, aren't being addressed or able to be addressed in a timely manner.

And some of the things that we believe would be helpful is not only these external timeframes for these Board disciplinary matters to be addressed, but also the fact that we need an Executive Director who has the appropriate qualifications and licensure -- both as an RN and a master's-prepared nurse -- with managerial authority over subordinates to be able to effectively carry out the mission and the purpose of the Board of Nursing.

In addition, we also believe that external benchmarks are necessary; that there should be some form of reporting how many disciplinary matters, where complaints have been filed, have exceeded the one- and two-year period and have yet to be brought to a hearing. That if we don't have that sort of reporting requirement -- as is often required of Superior Courts in New Jersey to report how long matters have been pending since a complaint has been filed -- well, we should also have that public information, so that this body and the public will know how often and how many of these disciplinary proceedings are exceeding the benchmarks of one and two years -- meaning, those licenses are languishing.

And as to individual prospective licensees -- we are on the precipice of a nursing shortage. U.S. Labor and census statistics identify that we are going to be losing about 1.2 million licensed nurses between 2014 and 2022. Combine that with the statistic that between now and 2030 we are going to go from 45 million over the age of 65, to 80 million. One in five Americans will be over the age of 65 years old in 2030 -- less than 13 years -- with less than 1 million nurses to care for them. If we, as a state, are not adequately processing the licenses of people who electively want to be here, and instead will apply and go to other states where their license will be processed faster, and obtain jobs, and actually fill those positions they are hired for, they will not come to New Jersey; they will go to other states. And when they do that, who will care for our elderly?

So with that, we believe that there is still time to address these issues; but it's not a lot of time. So we hope that this Committee, and the rest of the Legislature, will take, with all seriousness, the concerns that we, as attorneys and nurses, have raised.

And we're free to answer any questions you have.

SENATOR GORDON: Thank you very much for some very compelling testimony; and some very compelling data about the decline in staff numbers, and also the demographic comparative we face.

Any members of the Committee with questions?

SENATOR WEINBERG: Do you have any statistics about how many disciplinary actions are filed, say, per year, over the last three years? And how many of those -- and whether or not they get-- Well, how many of them are upheld, and how many are dismissed?

MS. GIALANELLA: That's something that we had a great deal of difficulty wrapping our heads around. There are a lot of statistics available to us. We do know that the Board, on average, does consider about 250 disciplinary matters per month, and we're actually having a discussion about how do we get that information. Because I believe that what gets measured gets managed; and I think here we have a situation where we don't really understand. We're from the outside, we don't have a lot of the inside information.

But certainly, I like the idea of doing a full assessment. The nursing process starts with assessment, and then goes to plan, and maybe some strategic planning -- doing something -- so that the nursing process-- If you apply it to the Board of Nursing, I think that we would probably learn a great deal. And I very much like the idea of an outside entity, maybe, coming in and doing a management study to find out what's going on.

But we do not have access to that data.

MS. PIETRO: And we have tried to get that data, right?

SENATOR GORDON: It sounds like some data that we should request, as a Committee. I hope staff will take note of that.

Senator Weinberg.

SENATOR WEINBERG: So they deal with 250 disciplinary actions a month. So I am assuming they're just reading somebody else's assessment, is that correct, at the Board of Nursing?

MS. GIALANELLA: What happens generally is a complaint is filed with the Board -- not a formal complaint -- an informal complaint, usually from a health care facility, about the nurse; because the nurse has

allegedly engaged in some incompetent practice, or they may suspect that he or she is impaired, or that she has engaged in professional misconduct. A report, under the Healthcare Professional Responsibility and Reporting Enhancement Act -- that Cullen Law -- goes to the Board; and the Board then has to take certain steps. And you really need professional nurses to look at the information that's being submitted by the employer, to the former employer, about that nurse in order to understand that, you know, do we really have an issue here, and how serious is it.

The Board has a lot of work to do once one of those complaints lands. And they're obviously getting quite a few if they're looking at 250 a month. And they do run the gamut; some of them are complaints that are valid, and some are supercilious. I've dealt with them myself, as representing nurses. But there are a large number of these complaints that go to the Board, and then the Board has to go through its steps; it has to reach out to the employer to get additional information very often. It then has to reach out to the licensee to get the licensee's information, whatever that person wants to give in way of perspective, and what kind of documentation they may offer to mitigate their circumstances or show that they are good nurses.

All that information has to be gathered, analyzed by staff -- we have only one fulltime nurse on staff -- all of that has to be analyzed, then given to the full Board for Board review. They get that information, as I understand it, a couple of weeks before a disciplinary meeting is held. All the Board members who are in attendance at the meeting have reviewed 250 investigations or discipline situations. And I don't understand how they're doing it. (laughter)

MS. PIETRO: Right.

SENATOR WEINBERG: Well, even more so, how does one staffer do it?

SENATOR GORDON: Yes.

MS. GIALANELLA: I don't know.

SENATOR WEINBERG: I mean, you're talking about 3,000 cases a year.

SENATOR GORDON: There is certainly the suggestion of how an extended period of evaluation upfront, I think, is a good one; because it may well just reduce the workload by doing the upfront analysis to weed out something that may be frivolous, or something that doesn't rise to an acute situation. There may be some legislative remedy we can pursue here.

Assemblywoman, do you have some questions?

I'm sorry; Senator Weinberg, are you done?

SENATOR WEINBERG: No, that's it.

ASSEMBLYWOMAN MUÑOZ: Are you done? Sorry.

You know, when we started this hearing today, I said one of the things we wanted to do is have the facts. And what I really would like to do and find out is -- JoAnn, you said it's a \$2 million budget; that's the numbers that I'm getting. So we need to actually know the numbers. I mean, you know, if you look at the budget that Pat gave, we're talking about, you know, \$11 million to \$15 million versus \$2 million. So we need the actual numbers. That number, I don't believe could possibly be correct -- that it's \$2 million. Because, yes, we collect the fees, and they go into the General Fund, and then it's an appropriation, plus-- So let's just -- if I may

ask the Committee -- to get a real number. This-- You know, I was speaking to the NJSNA, and looking and doing an OPRA-- It's a very complicated budget -- piece of paper. So we know it's not \$2 million; we know it's not. So what is the actual number? I mean, that seems like, again, there should be no guessing here; this is a fact. How much comes in, how much is appropriated, what are your staffing salaries? What is your administrative cost? We can't throw out numbers of \$11 million and \$2 million and think that they are both correct.

So again, one of the goals of this Committee was to find the facts. So let's do that before we start to say things that don't make sense; they simply don't make sense.

My second thing is -- and I have worked with Kathleen Gialanella for over the last eight years on this issue. I'd like for Kathleen to speak to the Committee about how Cullen's Law specifically has changed the dynamics of New Jersey licensing and nursing. Because we-- You know, the Interstate Licensing Act -- the reason we've had difficulty in New Jersey being part of an Interstate Licensing Act, is because of Cullen's Law. And Kathleen and I have worked on this issue, because I think that -- and I would like Kathleen to speak to it, because she is much more articulate about it, and understands the issue much better than I do. But you prefaced it by saying you've increased the number of triggers to the Board; we've not been able to join this Interstate Pact because of it. So how does it directly impact the State of New Jersey; how does it impact the practicing nurses; and what could we do to make it better? Because I know the intent was good; but if we have unintended consequences that are hurting these

people -- the nurses' and other professional's ability to practice, we need to address that, if you would, please.

MS. GIALANELLA: If I understand your question-- And again, I started practicing before the Board, probably, 32 years ago at this point. And the number of disciplinary actions -- of course, I was inexperienced, so I didn't have a lot of work -- but as the years went on, I would get more work. But I never had the disciplinary load of cases that I've had since the Cullen Law -- not even when it was enacted. When it was enacted, we started to see a little bit of an increase of disciplinary actions going to the Board, I would say, around 2010, 2011, when there were still no regulations associated with that law. And those regulations finally got passed, thanks to the work of Senator Weinberg. I remember you had called a Committee hearing in regard to that issue. Then we saw a substantial uptick.

So now I think the Board is receiving an exponential number of investigations and disciplinary actions that it has to handle, that it didn't handle back in the years when it had 84 staff members, and now it has significantly less staff members.

The impact for the licensee -- if I just might take a minute to explain that -- under the Cullen Law, if I'm a nurse and I am terminated by my employer because I am suspected of being impaired, or I'm incompetent, or I've engaged in some kind of professional misconduct -- if I am terminated by my employer, nothing has happened to my license at that point. But that employer, under the Cullen Law, is required to make a report to the Board of Nursing. The Board of Nursing will then begin its investigation, and it takes a significant time for the Board to do that

because I think they're very diligent and they want to do it properly. So it does take a long time.

During that period of time, although I, the nurse, have been identified to the Board, and I am under investigation by that Board, nothing has happened to my license. But if I apply to a different health care facility for a job, the Cullen Law requires that potential employer to contact the former employer. The former employer is required to disclose to the potential employer that, "Oh, yes, Nurse Kathleen was terminated from our facility, and we reported her to the Board of Nursing." Do you think I'm going to be able to get a job, even though nothing has happened to my license? My license is still active, it's in good standing. And it's a very one-sided process because it's the employer that determines if something is going to be reported to the Board. No matter what I do as that nurse to try and prevent that from happening, hospital counsel is telling management that, "You have to report this information, because this is what that law requires."

So I could be out of job for quite a long period of time, even though I'm still actively licensed; nothing has happened to my license. And more than likely, after the Board vets the entire process, nothing will happen to my license because I think a majority of those cases are resolved without any action being taken.

During that period of time, my reputation has been ruined and my ability to earn a living has been taken away from me. So that law has a profound impact for the types of clients who we represent.

SENATOR GORDON: Just a quick question.

Do we know what percentage of cases are overturned?

MS. GIALANELLA: I can only talk to my own personal experience. I would say at least 50 percent of the cases that I handle are resolved at the Board level, with the Board not taking any action against the individual; at least 50 percent, if not more.

ASSEMBLYWOMAN MUÑOZ: So specifically, could you give a broad example of what would trigger a report under Cullen's Law that would not-- So if I was fired because I was rude to a patient's family, which-- Is that something that could happen?

MS. PIETRO: Yes; oh, yes.

ASSEMBLYWOMAN MUÑOZ: Would that, then -- so then they would say, "You know, you were rude to the patient's family in the hallway on the way to the cafeteria."

MS. PIETRO: Yes.

ASSEMBLYWOMAN MUÑOZ: It could be as simple as that, correct? And now I'm reported to the Board of Nursing as being--

From both Kathleen -- and I forget your first name; I'm sorry.

MS. PIETRO: Keith.

MR. HOVEY: Keith.

ASSEMBLYWOMAN MUÑOZ: Because you're presenting Cullen's -- the length of time as hurting the public, because it's taking -- because you're seeing it from a perspective of the nurse may have done something wrong. Kathleen, you're saying it also has an impact on the nursing side, because the nurse may have done nothing that impacts her license, but it affects her ability to practice because she can't get a job. So it has ramifications on both sides.

MR. HOVEY: Yes.

ASSEMBLYWOMAN MUÑOZ: So it could be-- So, Kathleen, in a situation like this where, you know, I was rude to a family in the hallway; and I've been fired for that reason. Is that reportable under Cullen's Law; or do I just -- does every termination get reported under Cullen's Law?

SENATOR GORDON: I see Dr. Murphy is raising her--

DR. MURPHY: (off mike) Patient harm is the threshold.

SENATOR GORDON: Perhaps, Dr. Murphy should come up and--

DR. MURPHY: (off mike) Being rude to a family in the hall is not going to get you reported.

ASSEMBLYWOMAN MUÑOZ: Okay.

DR. MURPHY: (off mike) If there's actual or potential patient harm, and you are terminated for that reason, then--

ASSEMBLYWOMAN MUÑOZ: I just wanted to make clear about that, because it sounds like, you know--

DR. MURPHY: (off mike) If you're late all the time, or you get fired because you were insubordinate to your Administrator, and if you are accused or proven substance abuse, you are not reported to the Board if you go to RAMP--

ASSEMBLYWOMAN MUÑOZ: Okay.

DR. MURPHY: (off mike) --for discipline. And that doesn't involve Cullen.

ASSEMBLYWOMAN MUÑOZ: But if you -- but Kathleen--

DR. MURPHY: (off mike) It's patient harm.

ASSEMBLYWOMAN MUÑOZ: But then Kathleen said that 50 percent are dismissed. So what--

DR. MURPHY: (off mike) Well, you're not dismissed. What happens is, you're reviewed and we come out and say, "No cause for action." That's not necessarily saying it didn't happen, but there's no cause for action against your license.

ASSEMBLYWOMAN MUÑOZ: And yet there's an accusation of potential patient harm.

So being perpetually late could be potentially--

DR. MURPHY: (off mike) No.

MS. PIETRO: No, that's specifically excluded from the Cullen Law.

ASSEMBLYWOMAN MUÑOZ: Okay.

DR. MURPHY: (off mike) Patient harm.

ASSEMBLYWOMAN MUÑOZ: Well, you know, so-- Kathleen, what could we do to make Cullen's Law better?

MS. GIALANELLA: Well, I think if there were some limitations with regard to what actually does get reported, that would be very helpful. JoAnn had mentioned -- perhaps it could be more permissive as opposed to mandatory, at least with regard to certain categories of situations.

I had many cases that had been reported to the Board; I just took a call yesterday from a nurse who has only two years' experience; basically, a brand-new nurse who has a lot to learn yet. Unfortunately, she wasn't doing well during orientation, and they decided to let her go. And this hospital told her, "We are reporting you to the Board, even though

there was no allegation of patient harm.” And they said, “We report any nurse who we terminate involuntarily if it has something to do with nursing.”

So unfortunately, the hospitals do not seem to be interpreting the law as the Board interprets it, or as I would interpret it. So it’s a very real problem, and I think it accounts for many of the 250 disciplinary actions, or investigations, that the Board has to review on a monthly basis.

ASSEMBLYWOMAN MUÑOZ: And does this remain on the record of that nurse forever; or if it’s dismissed -- or the 50 percent -- it’s not part of your record.

MS. GIALANELLA: Right.

MS. PIETRO: Well, if-- It is gone from the Board of Nursing record; however, what happens under the Cullen Law -- that employer who terminated you and reported you to the Board -- even though you’re vindicated by the Board, is obligated, for at least seven years, to tell any perspective employer that you were terminated, why you were terminated, and that you were reported to the Board of Nursing.

So even if you can say, “But I got reported, and here are all the things. I really didn’t do this; it was,” whatever your defenses are, nonetheless, that original reporting healthcare entity has to continue to say what happened.

ASSEMBLYWOMAN MUÑOZ: Even when you are found vindicated.

MS. PIETRO: Yes.

ASSEMBLYWOMAN MUÑOZ: So a change to Cullen’s Law could potentially work to fix this problem?

MS. GIALANELLA: It would work, I think, to the Board's benefit. They wouldn't-- As I said, 30 years ago, they didn't have the caseload that they have now. So in that sense, it would work to the Board's benefit--

ASSEMBLYWOMAN MUÑOZ: How about to the public's benefit?

MS. GIALANELLA: --and it would work to the benefit of these poor nurses who have been subjected to this law, now, since 2005. And it would certainly, I think, work to the benefit of the healthcare consumer because I think this is creating a chilling effect for the profession itself. Many people say to me, "I don't know--" When I explain the situation, many people say to me, "I don't know why anybody would want to go into the nursing profession, knowing that that possibility looms."

ASSEMBLYWOMAN MUÑOZ: And am I correct about the interstate licensing thing -- legislation-- Because of our Cullen Law, that that has been a part of the problem with us being able to--

No? Pat is saying "no."

DR. MURPHY: (off mike) No.

ASSEMBLYWOMAN MUÑOZ: Because I was-- Somebody told--

DR. MURPHY: (off mike) The reason we didn't sign into the Compact before is we didn't have mandatory fingerprinting. Now that we have mandatory fingerprinting, we are looking to get into the Compact, and that we would be accepted.

ASSEMBLYWOMAN MUÑOZ: Okay. And the other states that would be in that pact all have mandatory fingerprinting.

DR. MURPHY: (off mike) They all have to have it. It's one of the requirements, yes.

ASSEMBLYWOMAN MUÑOZ: So that wasn't Cullen's Law.

DR. MURPHY: (off mike) No.

ASSEMBLYWOMAN MUÑOZ: Okay; thank you.

MS. PIETRO: On the Interstate Compact or Compact Nursing -- looking at accepting more people from out of state to be licensed in this state, we can't even license the people who are here, who have gone to school here, and who genuinely want to work here, as opposed to people from the Compact Licensure situation, who would be coming here. You know, I think that our Board really needs the resources to be able to process all licenses, all takers who come here, especially in light of what's going to be happening with the population -- with the aging, and with the services that are going to need to be provided to the citizens of this state.

SENATOR GORDON: Okay.

If there are no other questions, I want to thank this panel. This was extraordinarily helpful; a lot of very concrete ideas for some potential bills that I certainly would be interested in doing, perhaps with--

ASSEMBLYWOMAN MUÑOZ: As I said, I've been working with Kathleen on this issue, and would be happy to work with you on it.

SENATOR GORDON: Yes.

Thank you all very much; and I suspect we will want to continue our relationship and get your advice on the remedies we advance.

Thank you very much.

ALL: Thank you.

SENATOR GORDON: Our next panel is going to consist of Dr. Muriel Shore, Dean of Nursing at Felician University; and Brenda Petersen, Associate Dean, School of Nursing and Public Health at Caldwell University .

If you could join us upfront.

Thank you very much, and thank you for your patience. This has been a long day.

Either one of you can begin.

**M U R I E L M. S H O R E:** I'm Muriel Shore; I'm the Dean and Professor of Nursing at the Felician University School of Nursing. It's a position that I've held for the past 17 years.

Felician's School of Nursing began operating in 1965, and has grown significantly since. We now offer bachelors, masters and a doctoral degree in nursing, with an enrollment of 600 students.

As a professional school regulated by the New Jersey State Board of Nursing, I've had extensive experience interacting with the New Jersey State Board of Nursing Executive Directors, Board members, and professional staff.

Additionally, I've had the privilege of serving on the New Jersey State Board of Nursing Board for a period of about 13 years, having been appointed by three Governors. During that time I served as Board Secretary and Treasurer, and either chaired or served on every committee of the board -- Education, Discipline, Alternative to Discipline, Legislative, and Regulatory. I've worked closely with the Deputy Attorneys General and, on several occasions, was in meetings with administrators in the Division office to review and discuss budgetary issues.

It is from both vantage points that I would like to provide my observations and recommendations.

Since 1912, the New Jersey Board of Nursing has been a regulatory beacon for nurses, nursing, and consumers in the state. The guardian of quality nursing education and practice standards, the Board has had fewer than 10 Executive Directors in the past 105 years -- quite a testimony to the dedication and commitment of these very qualified and established leaders.

Throughout the state and nationally, our State Board of Nursing is recognized as a model of excellence and innovation. The Executive Director and Board members have served on many National Council of State Boards of Nursing committees, and still do. New Jersey was always viewed as being in the forefront of practice and regulatory reform; a reputation that was fueled by very responsive Governors and an informed Legislature who understood and supported the New Jersey Nurse Practice Act.

We cannot ignore the issues confronting the structure and functioning of the Board of Nursing today, nor do we want to lose the public's trust. Newspaper reports that meetings have been cancelled due to a lack of a quorum, the prolonged time it takes to get a nursing license -- whether it is for new graduates or out-of-state nurses seeking endorsements -- and the delayed timing for certification of homemaker-home health care aides, gives rise to a loss of confidence in the Board's stewardship, effectiveness, and image.

The hearings you are holding today, and your further study of the information you receive, will set the path for the future of the New

Jersey State Board of Nursing, the largest regulatory Board in the state. So I ask you to please consider the following recommendations in your study.

The first issue is the incompatibility of housing the New Jersey State Board of Nursing, and other professional boards, in the Division of Consumer Affairs, with occupational boards unrelated to health. My recommendation would be to realign the New Jersey State Board of Nursing, along with the other health professional boards, in the Department of Health, which regulates health care facilities, public health, and health services. There should be greater congruence between regulating health care settings and facilities, and the providers of care and services. The realignment of the health professional boards would promote interprofessional practice collaboration and teamwork, which is becoming the standard of practice.

The current structure -- in which the Division of Consumer Affairs operates and oversees 46 diverse boards, licensing more than 750,000 licensees -- is fragmented and diverts funds from nursing licensure fees into other areas. The diversion of funds issue needs to be investigated and reconciled.

The second issue is the issue of sufficient staffing of the Board office to assure efficiency in meeting its legislative and regulatory functions, which is critical. In past years, fulltime professional staff with master's degrees headed up the Education and Disciplinary programs and were able to process the work in a timely fashion. Today, the hiring freeze and the loss of qualified, fulltime professional staff to handle these legislative and statutory functions has resulted in the hiring of part-time and per diem professional staff to manage these important functions.

So the recommendation would be to resource the Board of Nursing -- the operational needs -- by immediately seeking an exemption to the hiring freeze and authorize the Executive Director to hire two master's-prepared professional staff to head up the Education and Discipline programs.

I think the issue of looking into the practice of diverting revenue from nursing licensing fees to the General Fund, or elsewhere, is another issue. Except for reimbursement for services rendered, the Board of Nursing monies should be utilized to hire the additional staff, if needed, upgrade technology, etc. And also, such sustainable revenue would avoid an increase in licensing fees in the future.

The third issue relates to the position of the Deputy Director, which was eliminated several years ago. And this is a position, as you've heard, that is essential to support the oversight and work of the Board office.

The other issue is that Board appointments, as you know, are not made in a timely fashion, with several in hold-over status. This further affects the ability to complete committee work and limits Board participation and discussion at meetings.

So the recommendations here are to reinstate the position of Deputy Director to support the Executive Director's role in overseeing the 150,000 to 200,000 licensees. And the second recommendation is to consider legislation providing that all Boards and Commission appointments shall be filled by the Governor's Office within 60 days of the existence of the vacancy. And if the Governor does not act, the

recommendation would be that the Senate President shall make the appointment.

The New Jersey Board of Nursing is to be commended, not criticized, for working under very difficult staffing conditions while working very hard to meet its obligations to serve New Jersey residents, public, and the licensees.

So the hearing today provides hope that attention will be given to resolving these issues.

And I do want to thank you for recognizing the need for the public input today to assist you in your fact finding. And I hope my recommendations will be helpful.

Thank you.

SENATOR GORDON: Thank you, Dr. Shore, for some very concrete and thought-provoking suggestions, which we will certainly take under consideration.

And so let me turn to your colleague.

**B R E N D A P E T E R S O N, Ph.D.:** Thank you; thank you very much.

I am Dr. Brenda Peterson; I'm Associate Dean at Caldwell University. And we are a new program; new -- about six years old.

It is my honor to be here, and I thank you for inviting us. I am here to provide testimony on behalf of the Organization of Colleges of Nursing in New Jersey. Our organization represents more than 20 nursing schools at baccalaureate and graduate level; and our mission is to continually develop educational programs to achieve a high quality, qualified nursing workforce, both now and in the future.

And I would like to share the impact of the crisis at the Board of Nursing, and the impact that it has had on my school.

We graduated 29 students in May; so we're small. Out of that 29, two students waited until August for their authorization to test. And we know, as nursing educators, that the further a graduate goes from the point of graduation to the test, the more likely they are to fail. That affects our program because we are under regulation, by the Board of Nursing, to achieve a certain number -- a certain percentage of students who do receive their licensure.

So it's a bigger issue than just that. What we describe this as, in nursing, is *knowledge decay*. Nursing is a practice profession, and the only way that the novice will become an expert is to enter practice. So this delay of two months has a potential impact on their knowledge coming into the workforce. And in the U.S., preventable patient injury remains the third-leading cause of death in this country. And in fact, those deaths are commonly tied back to that novice nurse.

So this is a big impact -- again, not just on that novice who is delayed in entering the workforce, delayed in compensation, jobs that are waiting for them with our hospital partners, that are delayed in the ability to bring these novices into the workplace. And at the same time, the fear that I have as the person responsible for their education is, what are they forgetting in that period of time that they are waiting to enter the workforce.

We cannot afford to delay their licensure because, indeed, the safety and quality of healthcare will affect the public if this continues.

SENATOR GORDON: Thank you very much.

Any questions from the Committee? (no response)

Thank you both very much; very succinct and clear testimony.

We appreciate your being here.

Thank you very much.

Our next panel will consist of three persons: Samantha DeAlmeida, Deputy Director for Government Relations and Policy at the New Jersey Hospital Association; Aline Holmes, Senior Vice President for Clinical Affairs at the New Jersey Hospital Association; and Christine Buteas, President and CEO of the Home Care & Hospice Association of New Jersey.

If you would all come forward, please.

And again, whoever would like to start.

**SAMANTHA DeALMEIDA:** I'll start.

Chairman Gordon and members of the Committee, thank you so much for discussing this important issue today.

My name is Samantha DeAlmeida; I'm Deputy Director of Government Affairs for NJHA.

On behalf of NJHA and our nearly 400 hospital and post-acute members, thank you for allowing us to testify today.

The Hospital Association is a not-for-profit trade association, committed to helping its members deliver quality, affordable, and accessible healthcare to its communities.

One of our primary goals at the Association is to ensure that our members employ motivated and qualified individuals who provide excellent healthcare to the citizens of New Jersey. However, with the current issues that the Board of Nursing is facing in regards to staffing,

oversight, and licensing backlogs, hiring has become a challenge for many of our members. While the licensure process for nursing has moved from paper-based to online, through your discussion today you may have realized that many other boards have not, resulting in long delays and backlogs in the hiring process for other health care professionals as well. NJHA currently is strongly supporting a Bill, S-2205, which would require professional boards to provide for online processing of applications and licensure renewal.

I have with me today Aline Holmes, NJHA's Senior Vice President of Clinical Affairs. Aline will speak further about the challenges that New Jersey's health care facilities, that are members of NJHA, face while trying to hire nurses and meet efficient staffing levels.

**A L I N E M. H O L M E S, DNP:** Thank you very much for allowing me to speak this afternoon.

And I have to tell you that's the first time anybody has pronounced my first name correctly -- the very first time. (laughter) So thank you for that.

**SENATOR GORDON:** You learn these things in politician school. (laughter)

**DR. HOLMES:** So as Sam said, I am Aline Holmes; I'm the Senior Vice President of Clinical Affairs at the New Jersey Hospital Association. But I am also the Co-Director of the New Jersey Nursing Initiative, which is a Robert Wood Johnson Foundation-funded initiative, originally to look at improving the quantity of nurses in the state who are preparing to be faculty in our schools of nursing. And now we're focusing

on how do we educate and prepare nurses for our changing health care environment, and moving them into different care settings.

So we have been funded for about eight years now; we have a couple of more years to go.

I'm not going to read my whole testimony, because it's -- a lot of it is what you've already heard. But we are here -- NJHA is here to express our concerns about the instability at the New Jersey Board of Nursing. You know, state boards of nursing are the core to ensuring safety of the public. That's their primary role -- is to afford great protections for the public and consumers. Much of my work at the Hospital Association is around safety and quality of care in all of our health care facilities. So I think that's really a core component of the work of the boards of nursing. They do complete assessments of applicants for licensure; they ensure -- investigate complaints of incompetent and unethical practice; conduct of nurses are investigated and followed through. They do a lot of you know -- working in the schools-- But our health care environment now is changing rapidly to one that's not hospital-centric, but more community-centric and more patient-family focused in the community.

Our boards of nursing have to have the resources to be nimble and be able to respond to those changing -- what the population really needs, and is going to need, going forward. And they have to be able to have the resources to be able to adapt to what's going on in healthcare, real time. And right now, just because of the shortage of staff personnel and the direction, they don't have the resources at our Board of Nursing.

We do have -- and I've heard all the numbers. With the amount of work that the Board of Nursing is doing, I would say that the

Nursing Compact is something that we need to look at. I don't know if you read, but during the hurricane in Texas, we -- actually, NJHA actually was able to get 50 nurses and one physician within about 48 hours who staffed a hospital down in Texas. And the major concern of some members of the Board was that we were not part of the Nursing Compact, and how were they going to practice in Texas. And it has come up again with the Florida hurricane, and just now we're dealing with it with the Puerto Rico damage.

And I worked very closely with Sharon Joyce during Sandy, and we were bringing in nurses from outside of the state. It was a very complex procedure. So anything we can do to help either our neighbors or get help in for us, I think we have to focus on, because it was really very, very important. Luckily, in some of the states, they waived the requirements and they didn't have to be part of the Compact. But I think we're all here to take care of everybody in our country, and we need to be able to be as flexible and nimble as we can be.

It is important that nurses regulate the profession. And I think that's really important, and I think the fact that we only have one nurse who is on staff at the Board is a very sad-- I mean, she's probably very competent, but-- I haven't met her yet, but just the fact that we only have one on staff who is trying to keep everything going, I think is a very sad commentary for our profession.

I've been on -- I've heard a lot, as far as the management and how the Executive Director does not really have authority to make decisions and hire and fire. I've been a Chief Operating Officer of a hospital; I've been a Nursing Administrator in a variety of administrative roles, prior to my time at NJHA, for over 30 years. And I can't even imagine having to

run a Board of Nursing -- with all the staff and all the requirements of that department -- without the Executive Director having control and authority over the people who are working underneath that person; over the funds that are coming in and how they're going out; and how all the processes under her, or him, are being carried out by the Board. It just is an untenable situation; and I think just from a pure management, administrative position, that's not a workable solution. And the more I heard today, I can understand where a lot of the chaos is coming from right now without, really -- no strong leadership at the current time.

I would encourage the Division of Consumer Affairs, and whatever other departments are necessary, to follow up immediately on these concerns and resolve any of the staffing shortages. Nursing is the largest profession in healthcare. We are the most well-regarded -- by the public -- profession; we want to keep it that way. We love what we do; we all are committed to our patients and their families. So we can't afford shortages, and the loss of impact of our Board of Nursing to make sure that we provide the very best care to our patients and the residents of New Jersey.

So thank you very much.

SENATOR GORDON: Thank you.

I have a question that you may or may not be able to answer. But you clearly have a broad perspective.

Would the American Nursing Association be a place -- and perhaps Dr. Evans can respond to this -- would the American Nursing Association, or the national equivalent of the State Nurses Association, be a place where we might be able to go for data, or might be a source of

information on the licensing process and performance in New Jersey, versus those states known for having the best practice?

DR. HOLMES: I don't think so, but there is an organization called National Council of State Boards of Nursing--

SENATOR GORDON: Okay.

DR. HOLMES: --and they oversee all the state boards of nursing. So I am sure they have that information and data.

SENATOR GORDON: Okay. That might be some place for the Committee to go, or the Office of Legislative Services, as we move forward with trying to solve these problems.

Let me turn to Chrissy Buteas, who I have had the pleasure of working with over the years. Actually, I think we had some interaction beginning, about, a couple of years ago. It could have been longer; I lose track.

And this was my first interaction with the Board of Nursing, really, and it was based on complaints I was getting about delays in the licensure of home health aides, which led me to believe that there are organizational issues at work here.

So Chrissy, if you could--

**CHRISTINE BUTEAS:** Well, thank you, Chairman.

I'm Chrissy Buteas, President and CEO of the Home Care & Hospice Association of New Jersey. We have the pleasure of representing the state's Medicare-certified home health agencies, health care service firms, which are also housed in Consume Affairs, as well as hospices.

I also, as Aline did, will not read my testimony. I know it's late in the hour.

And Chairman, and also Majority Leader, and Assemblywoman Muñoz -- I know that you have all had the pleasure of speaking with me about this issue. Because I think when folks see me, the first thing that comes out of my mouth is talking about our need for a workforce in community-based care. And we do have the pleasure of not only employing nurses, but also home health aides, who are really the backbone of care in the community.

So I echo everything that folks have said earlier today; I will not try to repeat a lot of things that were said. I think everything has been spot-on, and I know we have been working with the Chairman, who was at the Board of Nursing and discussing some of the challenges on ways that we can address fixes. And we said we can collaborate together. And since that time, we've still been trying to collaborate with the Board to address these challenges. And I know they referenced, earlier today, some temporary workers who are in place to try to process applications. There was a budget resolution that was put in the budget this year -- again, I think on a temporary basis. And what we're looking for is systemic changes, as was articulated by the Executive Director, and Pat Murphy, and others.

So we're certainly in line with them; we want to work collaboratively with everyone involved in solutions to this matter.

Why is this important? And I don't want to lose that. I'm going to speak specifically for home health aides, because I do think nursing was covered quite in-depth.

Home health aides -- first of all, their application is not online; which is different than the nurses. So we have a very paper-driven process. I'd be happy to share that with you; I have a copy of it here. And you have

a lot of information you have to include in this application which, obviously, could lead to it getting lost or misplaced, and it's just a cumbersome process. So, yes, we want to see technology and its application online; and we're hoping that will be done, sooner rather than later.

These home health aides also need to have promises of employment. They cannot work without the supervision of a nurse or without being employed by a health care service firm, a home health agency, or hospice. So that paperwork is sent over by agencies, so there is a lot of back-and-forth with e-mails, and paperwork, and mail. And I think the process just needs to continue to be reevaluated and made simpler, to the Chairman's point.

Furthermore, again, to why this matters, though, is that -- we are in desperate need of nurses and home health aides in community-based care. So every day that we lose having a home health aide or a nurse -- having their application sitting, waiting to get processed -- is another day that somebody doesn't receive care. And we need them, because there are cases where we actually are authorized to provide care, and don't have the workforce to put out into the field.

So I just wanted to bring that to you -- to everyone's attention, because you don't hear about that a lot. But that certainly is what my members are experiencing now.

So we would certainly concur with everyone, I think, in terms of solutions, moving forward; you know, looking at the collaboration with the call center, to the Board, making sure that they have permanent staff there to process these applications.

One of my colleagues was going to join me today; unfortunately, she had to leave. And she runs a home health aide training program, which also, then, hopefully, will be able to hire that home health aide. And back in the 1990s, she said that the processing timeframes were much fewer days than they are today.

So with all the advent of technology, you would think that things would be quicker and we would be able to get them into the workforce sooner. But unfortunately, that is not the case.

So if we could have better collaboration with the call center, if we could have additional staff, if the Board can retain their funds so that they can get the technology that they need -- I think these would all be steps in the right direction, including getting their application online.

So without belaboring, I think, many of the points that were made earlier, I will conclude my testimony.

And again, I want to thank you all for your attention into this very serious matter. It has severe implications on access to care issues in the community.

Thank you.

SENATOR GORDON: Okay; thank you very much, Christine.

I would ask that both you and Dr. Holmes -- if you could submit your testimony for the record, if you haven't done so already. We would like to have access to that.

Thank you all very much.

I'm sorry, Senator Weinberg.

SENATOR WEINBERG: I know we have a couple more panels to hear from, but--

SENATOR GORDON: Just one. (laughter)

SENATOR WEINBERG: Just one; okay. Well, that's good.

I'd just like to say, in summary -- and it's been a long day, and I might be a little tired and a little out of patience.

But we got a letter from the former Director of Consumer Affairs; a letter that goes out on stationery from the New Jersey Office of the Attorney General. A letter which practically denied every single thing that Dr. Murphy and Dr. Hart told us.

It would seem to me that I have sat here since about 10:15 this morning -- with the break for a voting session -- that says everything Dr. Murphy and Dr. Hart told us was quite true. We are hearing from a wide range of people who need the services of the Board of Nursing in order to carry out their responsibilities, whether it is the home health care agencies, the schools, the Hospital Association, the professional organizations that represent nurses.

So I really have to say I am disappointed; I'm disappointed in the Office of the Attorney General that allowed a letter like this to go forth. And I am greatly *not* disappointed in the professionalism, the ability of those people who know the Board of Nursing better than any of the rest of us sitting up here, who are willing to come forth and help expose this; and then come and give us testimony that proves that it's true.

So I know I prefaced that with "it's been a long day and I might be tired," but I really believe the people who are in charge of this -- and this is not a partisan statement; this might have all have begun long before this Administration took place; it might be a cumulative event -- but the New Jersey Office of the Attorney General allowed this letter to go out, and at

best -- at best, the best word I can think of using, is it was *highly inappropriate*.

Thank you.

SENATOR GORDON: Thank you, Senator.

I think a good verb might be *outraged*.

SENATOR WEINBERG: Well, I try to be a little calmer. But yes, *outraged* is probably a better word.

SENATOR GORDON: You know, and sort of given where we are in the calendar and the stage of this Administration, I think the thing we should do is just focus on trying -- rather than pointing fingers, certainly people should be held accountable. But I think, at this point, we need to learn what the problems are; and we've had the benefit of some great testimony on what -- how the system can be fixed. And I think we need to collect this information, and process it, and develop some recommendations that can be transformed into bills to fix the problem. I think the timing is right to hit the reset button and fix this agency.

I want to thank everyone on this panel, and--

I'm sorry; Assemblywoman, do you have any questions? (no response)

Okay.

And we will now turn to our last panel, which will consist of Judith Woop, Executive Director of the New Jersey State School Nurses Association; and Rita Smith, Director of the Organization of Nurse Leaders of New Jersey.

I don't think we have any other witnesses scheduled to appear today; but if Ms. Woop and Ms. Smith could come forward.

And thank you for your patience; it's been a long day.

SENATOR WEINBERG: Mr. Chairman, while they're assembling -- I don't know how it came about that Assemblywoman Muñoz was invited to sit here. But thank you to you, and thank you to the Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: My pleasure; thank you for--

SENATOR WEINBERG: And I really think you can be helpful to us, as we try to translate some of this into legislation action -- however it's going to work out. So I appreciate whose ever idea this was.

ASSEMBLYWOMAN MUÑOZ: Well, I want to thank-- Well, it was actually Mark's idea. (laughter)

Thank you very much; and--

SENATOR GORDON: Yes, yes. I can take credit for it, but--

MR. MAGYAR (Committee Aide): Yes, you can take credit for it. (laughter)

ASSEMBLYWOMAN MUÑOZ: Well, I thank you for allowing me to be here and to help you going forward.

And as I said, everyone out here is a friend of mine through the work I've done over the last eight-and-a-half years. Because I like to say I'm *the* nurse in the Legislature; so thank you. And I think that it's important that the nurses have a voice in the Legislature, so I hope to continue in this position. (laughter)

Thank you.

SENATOR WEINBERG: You're entitled to that commercial. (laughter)

ASSEMBLYWOMAN MUÑOZ: Thank you. (laughter)

Why not? I stayed here the whole time; I paid attention to every word that was said.

SENATOR GORDON: Okay.

If you could proceed, please.

**J U D I T H W O O P:** Senator Robert Gordon and members of the Senate Oversight Committee, thank you for the opportunity to address the Committee and to present testimony regarding understaffing issues at the New Jersey Board of Nursing.

As Certified School Nurses, our nursing practice is, first and foremost, governed by the New Jersey Board of Nursing. Because nursing care poses a risk of harm to the public if practiced by professionals who are unprepared or incompetent, the State, through its police powers, is required to protect its citizens from harm. In this case, it is our students.

That protection is in the form of reasonable laws to regulate nursing practice. State legislators delegate many enforcement activities to State administrative agencies, such as the Department of Education. Currently, the New Jersey Department of Education has no nursing representative at the Department to respond to inquiries regarding school nurse practice in the schools.

The charge from the State to the Board of Nursing is to protect the public. We need to be able to contact someone at the Board of Nursing to assist in interpreting statutes that deal with healthcare in the schools, especially delegation issues -- delegation of glucagon and delegation of EpiPen.

As representatives from the New Jersey State School Nurses Association, we request that these vacant Board of Nursing positions be

filled as soon as possible in order to receive guidance for school nurses to assist us in providing safe nursing care to our students -- your children and grandchildren. In addition, NJSSNA requests that the position of School Nurse Liaison, or School Nurse Consultant, in the in the Office of Student Support Services -- that was recently eliminated -- be reinstated.

Please don't hesitate to contact us for any further discussion on this subject.

SENATOR GORDON: Thank you very much, Ms. Woop.

Ms. Smith.

**L O R R A I N E B O R E K:** Good afternoon. My name is Lorraine Borek; I'm the President of New Jersey State School Nurses Association. Somehow my name was left off; I did submit it.

SENATOR GORDON: Sorry about that.

MS. BOREK: Is it okay if I speak?

SENATOR GORDON: Please.

MS. BOREK: Okay; I will be brief.

I just want to start by saying that, in July, Governor Christie did take action on legislation by signing Senate Bill 2058/Assembly Bill 671. This bill added two nurse educators to the State Board of Nursing. And Assemblywoman Muñoz was one of the sponsors of that Bill, so she certainly is a friend of ours.

This Bill demonstrated an understanding by the Legislature that giving nurse educators a voice on the Board would help support a thorough and comprehensive nursing education that would then benefit the public and impact the nursing care that they would receive.

When this Bill was signed, the interpretation was that the Governor was supportive of nursing and nursing practice, and there was some celebration going on out there.

And then, what happened is, the reality is very different. He failed to name these appointees or fill vacancies on the Board until September 30, 2017, which we are all now aware of. In addition, paid positions have remained vacant due to a hiring freeze. These positions are essential on the Board of Nursing so that the Board can meet its obligations.

You certainly don't need me to outline the duties and responsibilities of the Board of Nursing; but I do want to explain how these unfilled vacancies impact school nurses and the students we serve.

The school nurse's role is multifaceted. Student-centered nursing care occurs within the context of the students' family and the school community. And as we said, nursing care is shifting from acute care settings out into the public-care setting; so very often, school nurses are either the first healthcare provider that students see, or, in many cases, the only healthcare provider.

And there's an increased acuity level of students attending school with complex medical issues. And so because healthcare in the school has become more complex, we need a reliable resource when questions or concerns arise regarding legal interpretation of codes and statutes. Examples include requested administration of non-FDA approved medications or off-label use of medications in the school setting. School districts work with legal counsel that specializes in education law, but not

nursing or public health law. And this is why we rely on the Board of Nursing to offer us guidance.

As Judy Woop explained, there's no longer a nurse consultant at the Department of Ed to respond to these questions, so we rely on the Board of Nursing even more.

Our Association, and all of nurses, need an informed, reliable resource at the Board of Nursing to answer questions and concerns that require the interpretation of code, statute, and law. And school nurses want to ensure that the delivery of safe and responsible healthcare continues within the school setting.

Although I am representing school nurses, these positions are needed to support all nurses and protect the health and safety of the public.

The Board of Nursing licenses and regulates nursing practice for all the nurses in the state. And New Jersey State School Nurses Association appreciates your concern and support as you work to ensure the public health and safety by supporting the work of the Board of Nursing.

The Governor has taken the initial steps by announcing the most recent appointments to the Board. I am requesting that you ensure that these appointees assume their positions on the Board, and that the vacant positions are filled.

Thank you for listening to our concerns, and seeking solutions by garnering and understanding of this issue that supports the health and safety of our community.

Thank you.

SENATOR GORDON: Thank you very much.

Senator Weinberg.

SENATOR WEINBERG: Yes. I'm not sure, but-- First of all, I'm a little familiar with the school nurse issue. My colleague Assemblyman Gordon Johnson's wife just retired as a school nurse this past June, I think.

Did I understand -- did you say you used to use a resource at the Department of Education?

MS. BOREK: Yes. There was a school nurse consultant at the Department of Ed; and that position was vacated for a period of time, then it was replaced. And about a year-and-a-half ago, the person who filled that position retired, and that position was not refilled. They didn't post for it; they decided to-- And the Department of Ed was very clear that they will not comment on health-related issues within the school setting.

MS. WOOP: Excuse me--

SENATOR WEINBERG: I don't know what to say about that, except I do agree, and people who are not very familiar with school nurses should know-- I mean, the complexity of your profession has increased a hundredfold; and in terms of the kinds of drugs that have to be administered to students -- I think you outlined some of the issues around that.

Besides Assemblyman Johnson's wife, I have a cousin who is a school nurse, and I've seen her work at night on updating records; because it's not like what I used to think -- you know, a kid falls down, and skins their knee, and goes to the school nurse.

It's a lot more complex today, and now you're telling us, twofold. There was somebody you could call on in the Education Department, and now that position doesn't exist. And a matter of policy --

the Education Department has decided they're no longer going to give you advice about school issues?

MS. WOOP: The issue has been sent to a Nancy Curry; and Nancy Curry is in the Division of Pupil Personnel Services. And Nancy Curry is the one who gets the calls at the Department of Education, and then she will refer them to us at the New Jersey State School Nurses. And then we are, most times, able to refer them to the appropriate people; but we have nobody who we can get to at the Board of Nursing, currently, who would be able to be available and answer those questions. Because Nancy Curry has said that it is not a nursing issue, we have to go the Board of Nursing.

In the schools, nurses are subject to Administrative Law as well as to the Board of Nursing, first and foremost. So that becomes a really complex issue for us. And I have had administrators call me, I have had principals call me, I have had all of them call me about issues with school nurses and other administrative issues that deal with the nurses in the schools. They, for whatever reason -- if they don't find it in their policy manual -- their administrative policy, in the code -- if it's not specifically stated in the code, they say that the nurses don't have to adhere to that.

Well, that's not true, because we must adhere to our nursing license first in order to ensure the well-being and safety of the students in our school. And as Lorraine pointed out, we have students who must have-- And that's even in the guidelines, according to best practices and standards of practices for school nurses -- and we follow the standards and practices and best practices from the National Association of School Nurses. So we are connected with them through membership, and we get most of our

resources and our information from them; also from the schools of nursing. Most of the nursing schools have a school nurse certification program. I know I taught at Caldwell, and I am currently supervising for New Jersey City University. Any of the nurses who go through there, they must have an RN -- a baccalaureate -- and they must have courses in -- master's-level courses in school nursing for the certification program, which is directed by the State Department of Education.

In New Jersey, we're very unique. We have 566 municipalities; we have 1,200 certified school nurses in our Association; and there are another 1,300 school nurses in New Jersey. Many of the schools don't hire certified school nurses; they hire RNs. That's in direct conflict with Public Law 1999, which says that if schools hire after July 1999, they are required to hire a certified school nurse. There are certain things in the schools that only the certified school nurse can do, but most important is creating an individualized health care plan for these students. Those individualized health care plans drive the nursing practice, and it's done according to the nursing diagnoses.

What happens with that is, they make the plan of care for children with asthma, children with diabetes, children with seizure disorders; children with behavioral disorders, even. And we know that in the schools, Healthy Children 2010 -- because I haven't read the stats from 2020; I can't collect them properly -- states that 22 percent of the children between the ages 9 and 17 have a serious mental health disorder; 9 percent of those students -- the 22 percent -- have a serious psychiatric disorder. We have children with ADD, addiction, bipolar, schizophrenic; some are out of district, but most are incorporated into the school districts, into the

classroom. We have autistic children in many schools; we have preschool children who are handicapped, physically, and the comorbidity for a lot of physical handicaps is some type of depression. So now we have the issue of depression in many of our schools.

In my own school district, in northwest New Jersey, we had four suicides last year; and we have a very active program to combat suicide ideology. And the bullying, and the violence, and the vandalism -- I've served on those task forces, at that level; we're now incorporating school resource officers into the schools. So it is very complex; it's very difficult for us, as school nurses.

And we don't have enough school nurses in the school. The National Association of School Nurses recommends-- No, I'm sorry. New Jersey and the American Academy of Pediatrics recommend one nurse per school. Most Administrators adhere to one nurse per district. Well, that may have been true when they wrote the original law. But when they added Public Law 1999, they were to hire only certified school nurses. So we stand at that precipice, where it's a very slippery slope for us as school nurses.

So we have to adhere to the Administrative Law, but we are bound -- bound to do no harm. And that is where we need the Board of Nursing; we need them. I will tell you that they have been always supportive of us, in anything we have done, and in any issues that we have had at the schools. They have come to our defense, our support. But they are very limited in what they can do for us in the schools, but we need them for what they can do for us, the school nurses, who need that protection.

School nurses have liability insurance on their own, and they are covered by the school.

I'm sorry; I know I took over my time. I get--

SENATOR GORDON: That's okay. We're just hearing so many issues that we have to deal with today (laughter), I don't know--

MS. WOOP: I just thought I'd add that, because I--

SENATOR GORDON: --where we turn first.

SENATOR WEINBERG: Okay; I'm not asking anymore questions.

MS. WOOP: I wanted to wake you up at the end of the day.

SENATOR GORDON: Stop asking questions. (laughter)  
Thank you very much.

No, this has been very helpful and eye-opening. And you have raised issues that I certainly wasn't aware of. But we'll certainly add it to our list of things to do.

Ms. Smith.

**RITA SMITH, DNP:** Thank you.

I'm Dr. Smith, Dr. Rita Smith; I'm the Senior Vice President and Chief Nursing Officer at Jersey City Medical Center. And I am here today to talk on behalf of ONLNJ, the Organization of Nurse Leaders.

And that's important because we hire most of the nurses in the state through this leadership organization. And I think everything you've heard today we certainly would like to attest to.

There are really two issues that are at the forefront for us, and the first is, the time from application to licensure. That is having an impact

on hospitals and other health care institutions, because we do have a vacancy rate in the state, and certainly it's a growing vacancy rate.

Our members are telling us that the vacancies have increased this year, and the time-to-hire has increased in 2017, over 2016. And every day that we increase in time-to-hire, we're either replacing that at premium dollars -- which increases the cost of healthcare -- or we don't have nurses on the job to actually take care of our patients. So that is, first and foremost, one of our issues.

Our members are telling us that it's, on average, six weeks -- and many times, greater than that -- to get nurses licensed. And that's for new hires, both graduate nurses and nurses who are moving here from other states. That also threatens our workforce. We all heard, certainly, throughout the day, what we're going to need for nursing, going forward. And we do have competition from others states. We're a very small state with a lot of borders.

I'm in Jersey City, and our competition is New York. So if we can't get nurses licensed in the State of New Jersey, I lose that nurse to New York City. And I think that's true all along our borders in the state.

The second issue that's of equal importance is the time to reporting. When we do want to report issues to the Board of Nursing, first of all, it's almost impossible to get a support staff on the phone; and it takes months for them to call you back. So everything that you heard today -- at the Organization of Nurse Leaders, we would like to attest to that.

There are nurse leaders in the state who report up to a year for people from the Board of Nursing to report back to us, or to return their calls to us, on issues that we have reported to the Board of Nursing. And

we're not really talking about nurses who may have been terminated because they didn't pass orientation. We're talking about some very significant issues.

So that really does concern us, because we have a burden to take care of patients and to make sure that we deal effectively with professional issues. And we don't want to harm the nurse, but we also want to protect the patient. And if we can't get a response back from the Board of Nursing on these issues in a timely manner, we're putting our patients at risk. And we may not be employing a nurse in our institution who we have reported for what we believe to be good cause, but nurses work in more than one organization. And if that isn't followed up by the Board of Nursing in a timely manner, those nurses are practicing. So that is our second great concern.

And again, those are the two issues that we would really like to just say it's absolutely true; we're hearing it from all of our members. And we do appreciate that you convened this hearing; this is an extremely important topic, and it certainly -- we're very appreciative of it.

SENATOR GORDON: Thank you very much, Dr. Smith.

Any members of the Committee with questions?

SENATOR WEINBERG: I'm not asking any more questions.  
(laughter).

SENATOR GORDON: Okay. I would ask that if you have testimony that you've prepared, that you provide it for the record.

You've certainly added more evidence to the fact that we need to make some significant changes in the way this agency is run and the

resources it gets. We've learned a lot about school nurses that we didn't know before.

MS. WOOP: Thank you for listening. (laughter)

SENATOR GORDON: And I thank you for that. It may be worthy of a separate hearing in itself (laughter), legislation-- for those of you who are gluttons for punishments. (laughter)

The hour is late; I think the key points have been made. I share the Majority Leader's disappointment in the response that we got from the Administration. We've certainly heard enough today to know that there are, in fact, problems that need to be fixed.

We are committed, as legislators, to fix them. I look forward to doing that, on a bipartisan basis, with those who want to engage in this.

And I think, at this point, I'm going to adjourn the meeting. Thank you all for attending. We will continue being in touch as we move through the process.

Thank you all very much.

**(MEETING CONCLUDED)**