Good afternoon. My name is Linda Barton, I am a Registered Nurse at Norwood Hospital and a member of the Massachusetts Nurses Association (MNA) and I am here on behalf of the MNA. Our members provide care to Massachusetts residents of all ages, from birth until death. Registered nurses (RNs) are the clinicians that spend the most time with patients, and who, carry the ultimate accountability, both morally and legally for the safety of our patients. The legal underpinning of our professional practice and the regulations governing our practice and our patients' access to care and services are of paramount concern to us. This is the reason we are here today and why we have a strong interest in any and all efforts to modify these regulations.

In reviewing key regulations related to our role in caring for patients and communities, our interest is in making sure that any and all regulations fulfill the mandate of EOHHS to protect the public health of the commonwealth and that in all cases, no change in regulations is made that would in any way undermine the wellbeing of Massachusetts residents or our ability to provide appropriate care to our patients. In addition, we are here to talk about improvements to regulations to better protect our patients and the communities we all serve.

Nurse Practice Act

Our first area of concern relates to the regulations underpinning the Nurse Practice Act (244 CMR 3.00-9.00), which are the regulations governing the practice of nursing in our state. It is important to note that the MNA was founded in 1903 to establish the legal and regulatory framework for the profession of "registered nurse". Our organization and our members have spent the last 100 years establishing some of the nation's strongest laws and regulations governing the practice of nursing. An essential to the Nurse Practice Act are the strong protections our state provides nurses in the control of our practice, and the strict regulations pertaining to if, when and to who nurses may delegate specific tasks, or aspects of care to other personnel on the health care team. While other states have compromised the quality and safety of care for patients by allowing the delegation of nursing functions, such as medication administration, and certain types of assessments of patients to other providers, our state has stood firm in providing registered nurses with the ultimate authority and control over the decisions as to if and if ever they may delegate a task to a non-nurse. For us, this delegation language is key to protecting our patients, to preventing efforts by the industry to cut costs by deskilling care and depriving patients of the care and expertise of the registered nurse. No changes should be contemplated to these regulations.

Our state has also taken the lead nationally in requiring all nurses to accumulate continuing education credits to maintain their licensure in our state. This is covered in 244 CMR 5.00. These continuing education requirements respond to the fact that nursing and medical care are constantly in a state of rapid change, and it is incumbent upon all nurses to participate in career long learning and professional development. Massachusetts has set a high standard; therefore no effort should be made to weaken these requirements.

The one area of the Nursing Practice that could and should be improved is in the regulations governing the scope of practice for advanced practice nurses, such as nurse practitioners (NPs) and certified nurse midwives. While our advanced practice nurses are allowed to provide primary care to a number of specific patient populations, right now that autonomy to practice is limited by requiring these nurse practitioners to work under the supervision of a physician. Numerous studies have clearly demonstrated that nurse practitioner and certified nurse midwives provide high quality care on a par with physicians and other primary care providers. A number of other states have regulations in place that allow nurse practitioners to practice with autonomy. The Massachusetts Coalition of Nurse Practitioners has recommended the expansion of rights for NPs to provide primary care, particularly given the dramatic shortage of primary care providers, and the level of quality NPs are capable of delivering.

With regards to the enforcement of the regulations governing nursing practice in the Commonwealth, we take issue with efforts to combine different professional practice boards, and the resulting lack of staff and resources needed to provide appropriate oversight of the profession and the practice of nurses. The Board of Registration in Nursing lacks both the staff and professional leadership to do its job effectively. There are too many unfilled seats on the BORN and there is not enough staff and support systems in place to allow the BORN to fulfill its mandate of protecting the public.

An additional area of concern regarding the provision of nursing care in the Commonwealth goes to the issue of a new law and regulations governing safe patient limits for nurses working in acute care hospital ICUs. There is language included in the hospital licensure regulations (105 CMR 130.311(C) (that states hospitals can allow nurses in ICUs to have up to four patients at one time, which is in direct conflict with Chapter 155 of the Acts of 2014 and its subsequent regulations, 958 CMR 8.00 which established a limit of one patient per nurse, with the option of moving to two patients based on the assessment of the nurse and a hospital-specific acuity tool. The regulation established prior to the law must be rescinded. We are also concerned about any effort to change the current definitions in 105 CMR 130 of what constitutes an intensive care unit as currently defined by DPH. We are concerned that there may be attempts to change these definitions to allow hospitals circumvent the law by excluding from the law units such as neonatal intensive care units and pediatric intensive care units, which are currently covered by the existing definitions. There must not be any change to these definitions, as this law was put in place specifically to ensure the safety of critically ill patients in all intensive care units.

Determination of Need/Allocation of Needed Health Care Services

The next major areas of concern for the MNA are related to regulations governing the Determination of Need process for health care services (105 CMR 100) and the requirements around the reduction or elimination of Essential Health Services (105 CMR 130.122). Both or these are issues the MNA has been involved in for years, as we have worked with a number of communities, patient advocacy and community groups to ensure access to appropriate health

care services and/or to prevent efforts by various providers to cut needed services for specific patient populations, such as psychiatric or pediatric patients. The regulations and oversight related to the determination of need process and/or the protection of Essential Health Services are lacking and could be improved upon.

In the early 1990s Massachusetts dismantled what was then a very robust and aggressive system of regulation of the health care industry, with a powerful rate setting process and much more independent determination of need process. Now the state allows the market to decide the fate and future of health care services and to allow hospitals and hospital networks to compete, virtually untouched by regulation, for the determination of what services should be provided to specific communities and what services could saturate the market. The result of this process has been both the loss of dozens of hospitals and hundreds of hospital beds, and decreased access to vital services while at the same time, an increase in health care costs as facilities construct expensive facilities for duplicative services due to a weakened Determination of Needs process.

The Determination of Needs process was established to ensure "equitable geographic and socioeconomic access to health care services, help maintain standards of quality, and constrain overall health care costs by eliminating duplication of expensive technologies, facilities and services". However, we have seen costs sky rocket as wealthy health care systems construct expensive facilities based not on need, but on profitability. This, in turn, can cause less profitable, and less expensive, hospitals and facilities to close causing harm to the communities they serve. These regulations must be revisited and strengthened to ensure the health of the entire health care system.

While legislation has been filed to provide greater oversight of the DON process, we believe this is an area of vital importance to the Commonwealth and that EOHHS should utilize this process to provide real oversight of the health care industry to ensure the needs of the patients and communities, not that industry are the highest priority. While we advocate for the return of robust regulatory DON process we recommend a serious look at enforcement process in general for DPH oversight. Creating standards to protect our citizens without strong enforcement mechanisms diminishes the benefit of public health protection for the Commonwealths citizens

The Essential Health Services regulations must also be strengthened. Two years ago, the city of North Adams and community of 37,000 residents lost its full service hospital, with just two days' notice. Last year Quincy Medical Center, serving a community of 100,000 residents lost its hospital. In both instanced, the hospitals were in violation of existing state regulations, but the DPH lacked any enforcement power. The city of Fitchburg and Northern Berkshire County lost access to acute mental health services when Health Alliance closed its psychiatric unit at Burbank Hospital. In greater Boston, in an area of the state hardest hit by the opiate epidemic, Partners closed several beds in a much needed detox unit, and now Partners is seeking to deprive Lynn, a city of nearly 100,000 residents of its full service hospital. Right here in Taunton, this city lost access to its pediatric services, when Steward closed the pediatric unit at Morton

Hospital. In every one of these instance, except the proposed closure of the Partners hospital in Lynn, the Department of Public Health conducted the public hearings and investigations into those closings required under existing state regulations, and in every instance the DPH found that the services and hospitals that were closed were absolutely essential to those communities and should be preserved. However, the existing regulations do not provide the DPH with the authority to require providers to maintain those services or to penalize those who eliminate Essential Health Care services. At this time, our process for evaluating and regulating access to services amounts to a toothless tiger, and as a result, our state has no real power to ensure the public health of our residents is preserved and maintained.