

Testimony of
Mark E. Manigan, President and Chief Executive Officer, RWJBarnabas Health
For the Committee on Health, Education, Labor and Pensions
of the
United States Senate

Field hearing entitled:
“Overworked and Undervalued: Is the Severe Hospital Staffing Crisis Endangering
the Well-Being of Patients and Nurses?”

October 27, 2023

Chairman Sanders, Ranking Member Cassidy and Members of the Committee, my name is Mark E. Manigan. I am the President and Chief Executive Officer for RWJBarnabas Health, the largest and most comprehensive academic health care system in the State of New Jersey. On behalf of our nearly 38,000 employees and 9,000 physicians, I appreciate this opportunity to provide written testimony to the Senate Committee on Health, Education, Labor and Pensions.

Although I am unable to appear in person at today’s field hearing, I have the utmost respect for this Committee and its staff and support your efforts to identify solutions that improve the delivery of care in this country and address the ongoing, nationwide nursing shortage that is challenging every hospital in every state. These are serious issues that require serious attention, and I believe the innovative work we do for our patients and the communities we serve at RWJBarnabas Health can contribute greatly to this discussion.

I want to assure the Members of this Committee that contrary to the narrative of the misinformed or those seeking to purposely mislead the public, RWJBarnabas Health is proud of its relationship and partnership with our brothers and sisters in organized labor. Nearly a quarter of our employees are in a union. RWJBarnabas Health currently has over \$1.3 billion in construction projects underway with organized labor. For months, we bargained in good faith with the United Steel Workers 4-200 (USW 4-200), who represent our nurses in New Brunswick, and I am happy to report, that while slower than I had hoped, we continue to make real progress in negotiations. I can tell you, as an organization, we believe strongly in the collective bargaining process, and we look forward to continuing to make progress at the bargaining table – where negotiating belongs.

I am troubled by the inaccurate and misleading assertions put forth by the Chairman in recent public comments. Unlike a significant number of health care organizations in the Northeast and around the country, RWJUH has safe staffing guidelines in place that are derived from national, evidence-based practice by peer academic medical centers. These guidelines were agreed to by the USW 4-200 negotiating committee, representing RWJUH nurses, in multiple contract settlement offers from the hospital that they failed to ratify. Our patients receive safe and compassionate care across all of our services, as evidenced by multiple quality indicators and national quality rankings, which reflect our unwavering commitment to the communities we serve.

Our negotiating team at RWJUH has met with the union six (6) times since October 6, 2023, including this past Sunday, October 22, with the goal of reaching a fair and equitable resolution that provides the highest-quality patient care and creates a safe and supportive working environment for our nurses. I

believe and humbly ask that you understand that is where my focus should be at this time, as well as working with our team to maintain the delivery of care for our patients.

RWJBarnabas Health Commitment to Patients and Staff

RWJBarnabas Health is one of the State of New Jersey's largest private employers and a not-for-profit health care organization covering eight counties and more than five million residents. While we take pride in the incredible array of health care services we provide, many of which are regionally and nationally recognized, what distinguishes RWJBarnabas Health, and what we are most proud of, is our deep commitment to the most vulnerable among us. RWJBarnabas Health plays a vital role as part of New Jersey's safety net. We are, *by two times*, the state's largest provider of medical care to those who can't afford to pay and to beneficiaries of the Medicaid program.

As I noted earlier in my testimony, RWJBarnabas Health is a proud, pro-labor organization in a historically pro-labor state. We have long-term and deep relationships with many labor unions that represent all levels of the health care professionals we employ. We have successfully negotiated previous labor contracts with 29 independent bargaining units across the system, including seven nursing unions. We respect and support our workers' rights to organize and to peacefully protest.

Like all health care organizations, we continue to work hard to address labor shortages across all professions. Every hospital in every state has been impacted by a nationwide nursing shortage that began long before but was only further exacerbated by the pandemic. We are competing statewide, regionally and nationally for a finite number of people amidst a surge of significantly acute patients who require our care. The challenges are daunting, but we persist.

The pandemic put our nation's entire health care system and, in particular, hospitals like ours in the Northeast, to the test. We are eternally grateful for all that our nurses, physicians and other frontline staff did to save lives and treat our patients during one of the most difficult, tragic, and challenging public health emergencies of the past century. I am among the first to recognize the immense toll the pandemic took on our employees, especially our nurses, causing many to leave the profession. In response, RWJBarnabas Health has taken demonstrative steps to make operational improvements, lift wages and address staffing across our entire system. To be frank, we are a different hospital system today than we were just a short time ago, and any hospital that has failed to learn from the pandemic and implement needed changes is letting down both its patients and staff.

In an October 9, 2023 [op-ed published on nj.com and in the Star-Ledger](#), Cathy Bennett, president and CEO of the New Jersey Hospital Association (NJHA), addressed the impact the nursing shortage is having on our state's hospitals. She rightly argues that the complex process of safe staffing requires a flexible and collaborative approach that allows nursing leaders to adjust to fluctuating volumes and varying patient acuity. I agree with NJHA that this can be best achieved through evidence-based approaches, including acuity-based staffing tools, nurse-led committees, and tracking, rather than legislative oversight or mandated staffing ratios. President Bennett is spot on when she says that hospitals across our state, and arguably the nation, need greater legislative and budgetary support to expand critical pipelines and nursing education programs, strengthen workforce diversity, and enhance healthcare delivery.

Washington's focus on addressing the national nurse staffing shortage and health care reimbursement rates, which have plateaued and failed to keep up with rising costs, is certainly welcomed. Unfortunately, Congress has failed to pass legislation that would inject significantly more resources into strengthening

nurse pipelines and creating more educational opportunities to help address the staffing shortage. Although we have taken steps to significantly reduce our reliance on contract nurses across the RWJBarnabas Health system prior to the current strike at RWJUH, the shortage of nurses has made it impossible for us to entirely eliminate agency support. [An April 2023 report by the American Hospital Association](#) found that hospitals across the country are facing a \$100 billion annual shortfall in reimbursement from Medicare and Medicaid with hospital expenses rising 17.5% between 2019-2022, while reimbursements increased only 7.5% during the same period. Among the factors placing increased financial constraints on hospitals, the AHA cited critical workforce shortages forcing hospitals to rely more on contract labor, as well as historic inflation driving up the costs of medical supplies and equipment. Furthermore, while the American Rescue Act provided much needed support to help us get through the pandemic, most of those available funds have lapsed at a time when hospitals, including those in our system, continue to face financial challenges.

RWJBarnabas Health Commitment to Community Benefit

RWJBarnabas Health is privileged to be part of the fabric of the great State of New Jersey – a state rich in economic opportunity, diversity and culture, all of which contribute to the betterment of the lives of its outstanding residents. The system includes twelve (12) acute care hospitals, three (3) acute care children’s hospitals, Children’s Specialized Hospital with a network of outpatient pediatric rehabilitation centers, a freestanding 100-bed behavioral health center, two (2) trauma centers, a satellite emergency department, ambulatory care centers, geriatric centers, the state’s largest behavioral health network, comprehensive home care and hospice programs, fitness and wellness centers, retail pharmacy services, affiliated medical groups, multi-site imaging centers and two (2) accountable care organizations. Our footprint covers eight counties with over five million residents.

For more than 140 years, RWJBarnabas Health has been an anchor institution in New Jersey. As the state’s largest and most comprehensive academic health care system, our clinical programs have made us a destination for care, especially for patients facing complex conditions. We are honored to be a part of the generational legacy of so many New Jersey residents. Our team works tirelessly to ensure all are treated with compassion, empathy, and respect, and provided with the highest-quality and most equitable care.

RWJBarnabas Health is much more than a critical health care provider. Our commitment does not begin with a visit to a doctor or a hospital. It starts with creating educational and economic opportunity, safe and affordable living conditions, and access to healthy food. RWJBarnabas Health is a robust economic engine contributing more than \$5.5 billion to the New Jersey economy per year, and we harness that horsepower for the benefit of our diverse communities, in particular, the disadvantaged. Since 2019, our hire-local-buy-local “anchor mission” has led to more than \$214 million of spending with local and diverse vendors. We have intentionally recruited and hired 3,000 teammates from ALICE (asset limited, income constrained) neighborhoods. We funded the construction of a public elementary school and have developed career path programs for students with multiple educational institutions. We have “fall-proofed” senior homes and subsidized affordable housing for the working poor and the homeless as well as transitional housing for families suffering from illness-related financial hardship.

To address food insecurity and health, RWJBarnabas Health has built a greenhouse in Newark, distributed thousands of meals to the hungry, funded local community gardens, hosted farmers markets and established food hubs with local farmers in our cities, embedded nutritional programs in schools and community centers, and our Wellness on Wheels van traverses the state offering cooking classes on healthy eating.

We are also investing in the future health and well-being of all New Jerseyans. RWJBarnabas Health has dedicated more than \$1 billion, through our transformative partnership with Rutgers University, to increase access to groundbreaking clinical trials and innovative medical care. The partnership also trains and develops the health care providers who will take care of the next generation of New Jerseyans. Further, to make sure cutting-edge clinicians have the most effective settings in which to practice, from 2020 through 2025, RWJBarnabas Health will have invested more than \$4.7 billion in new equipment, technology and facilities, with a sizeable portion of that in underserved communities, creating thousands of jobs along the way.

We have implemented programs to reduce disparities in maternal health outcomes by focusing on prenatal care and education, enhanced clinical services for the unique needs of the LGBTQ community, partnered with the state on the “Arrive Together” program pairing mental health professionals with police on 911 response calls, implemented post-incarceration programs focused on providing health and social support services, and built fields and parks throughout the state, including the incredible Field of Dreams facility in Toms River, an inclusive playground and park for those with special needs.

In drawing erroneous conclusions about RWJBarnabas Health’s commitment to the community in a recent Report entitled “Executive Charity: Major Non-Profit Hospitals Take Advantage of Tax Breaks and Prioritize CEO Pay Over Helping Patients Afford Medical Care,” the Chairman respectfully relied on inaccurate information. [The American Hospital Association called the Report’s findings “mistaken,”](#) “just plain wrong” and that its “tunnel-visioned ‘research’ neglects to consider that under the law community benefit is defined by much more than charity care and includes patient financial aid, health education programs and housing assistance, just to name a few.”

For the record, RWJBarnabas Health provided approximately \$651 million in community benefit as defined by the Internal Revenue Service (IRS) and reported on Forms 990, Schedule H, Part I for calendar year 2021, in furtherance of its Federal tax-exempt, not-for-profit status. This does not include \$220 million in uncollectible patient accounts in 2021, which equate to bad debt, nor a \$184 million Medicare shortfall for the same year. When you aggregate all the sources of net community benefit, our unfunded costs represent 11.29% of our total expenses for 2021 of \$5.769 billion. In 2021, RWJBarnabas Health also provided \$142 million in charity care, representing nearly 2.5% of all expenses that year.

We thank the residents of New Jersey for their continued support of RWJBarnabas Health and for trusting us with their health care needs. As we step into the future, we look forward to witnessing all we will accomplish together in our continued pursuit of a healthier New Jersey.

Closing

I want to thank the Committee for its time and thoughtful consideration. Although I respectfully question the motives of the Chairman in choosing the timing and location of today’s field hearing, RWJBarnabas Health welcomes the opportunity to share our expertise and experience and participate in substantive policy discourse to improve our nation’s health care. RWJBarnabas Health is committed to its stated mission to build healthy communities through our care delivery at our facilities and through our significant work in the communities we serve. We are committed to investing in cutting-edge technologies, developing innovative procedures and treatments, and expanding our services to provide the best quality care for our patients. And we are committed to being a best-in-class employer, supporting our staff, offering competitive wages and benefits, and providing opportunities for workforce development.

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Alan Lee, President, Robert Wood Johnson University Hospital
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“Overworked and Undervalued: Is the Severe Hospital Staffing Crisis Endangering
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October 27, 2023

Chairman Sanders, Ranking Member Cassidy and Members of the Committee, my name is Alan Lee. I am the President of Robert Wood Johnson University Hospital (RWJUH) in New Brunswick, N.J. I welcome this opportunity to provide testimony to the Senate Committee on Health, Education, Labor and Pensions and thank you for your careful consideration of the information I am sharing herein.

I respectfully submit this written testimony in lieu of appearing before the Committee. The cadence of our negotiations has increased and we believe a contract is attainable in the near future. We cannot risk anything taken out of context in this hearing that might hinder our ability to reach an agreement to bring our nurses back inside so that they can resume their noble profession and support themselves and their families. Ending this strike is paramount.

As the Committee is fully aware, the nurses at RWJUH, represented by the United Steel Workers Local 4-200 (USW 4-200), have been on strike since August 4, 2023. As the leader of this organization, I state to you emphatically and with a clear conscience that we did everything possible to avert this labor action. Furthermore, we have done everything possible to bring our nurses back inside since that day. We have negotiated in good faith and transparently, and have offered more in settlement proposals than any other organization of similar scope has in our market. We have respected the nurses’ right to protest during this labor action despite relentless and abhorrent behavior impacting our sickest patients through noise and intimidation. Sadly, they went too far and assaulted a replacement nurse and began to intentionally block physicians reporting to the hospital to perform lifesaving interventions. Despite this behavior, which the union ultimately acknowledged was egregious and signed a consent order to cease and desist, we have kept our focus on settling our contract and delivering excellent patient care.

Upon completion of this testimony, I respectfully submit that the esteemed Committee will have a clearer picture of two important points. First, that the hospital is committed to providing our nurses with fair and equitable compensation and ensuring safe staffing levels that meet criteria based on patients’ acuity and the volume of the patients we treat. Second, RWJUH has fulfilled our obligation to care for our communities at all levels – which is no small feat given the complexity of our academic medical center – during this labor action. This is a sacred obligation, one for which we have paid an unfortunately high price to achieve during the strike.

Ensuring delivery of the highest quality, always-safe patient care and working towards a resolution that brings our dedicated nursing staff back to the bedside remain my top priorities and the focus of my attention. These cannot be characterized as mutually exclusive. They are equally important. Closing the hospital was simply not an option.

Background on Robert Wood Johnson University Hospital

RWJBarnabas Health is the largest, most comprehensive academic health care system in New Jersey, with a service area covering eight counties with five million people. It is a not-for-profit, safety-net organization and the largest charity care provider in New Jersey. RWJUH, an RWJBarnabas Health facility, is New Jersey's largest academic medical center through its deep partnership with Rutgers University. I am proud of our contributions to health care in New Jersey. RWJUH is ranked in the top five of New Jersey hospitals by both *US News & World Report* and *Newsweek*.

RWJUH has 640 licensed beds, is home to a nationally ranked children's hospital and, in partnership with Rutgers Cancer Institute of New Jersey, is the flagship location of New Jersey's only National Cancer Institute (NCI)-designated comprehensive cancer center. RWJUH is one of only seven hospitals in the world to achieve the prestigious Magnet Designation from American Nurses Credentialing Center six consecutive times. Two of the other hospitals to achieve this status are also in the State of New Jersey. RWJUH is one of three state-designated Level I Trauma Centers; an Advanced Comprehensive Stroke Program, as designated by The Joint Commission; a regional transfer center for cardiovascular care, stroke, neuroscience, trauma, pediatrics, and oncology; and performs kidney, pancreas and heart transplantations. RWJUH treated more than 90,000 patients in its adult and pediatric emergency departments last year.

Due to its role as a quaternary care facility, RWJUH employs health care professionals at the highest echelons of their specializations. Most clinical care providers and ancillary clinical team members have the highest levels of certifications and extensive experience, as is appropriate for addressing the sickest patients and the most complex conditions.

Like every hospital in New Jersey and the country, we are working hard to overcome a nationwide nursing shortage. Despite those challenges and the intense competition for employment, RWJUH continues to make positive strides in nurse recruitment, hiring and retention. We have added over 200 registered nurse positions since May 2022 to bolster our always-safe nurse staffing guidelines and have achieved a vacancy rate that is nearly half the national average. To retain and attract nurses with top certifications, commitment to nursing education and essential experience, RWJUH pays the highest wages in the state and is committed to protecting that status.

New Jersey is a pro-labor state and RWJBarnabas Health and RWJUH have and always will be union-friendly organizations. I respect our employees' right to organize and peaceably protest. Throughout the current labor action, RWJUH has continued to negotiate transparently and in good faith towards reaching a fair and equitable agreement on a contract with our valued nurses. It is not due to the hospital's offers or efforts that the nurses continue to strike.

Good Faith and Transparent Negotiations with United Steel Workers 4-200

See attached addendums:

- I. Summary of negotiation sessions with USW-4-200
- II. Infographic of the RWJUH always-safe nurse staffing guidelines;
Chart of the RWJUH nurse vacancy rate comparison to national nurse vacancy rate

Negotiations between RWJUH and USW 4-200, the union representing our esteemed nurses, began in April 2023, far ahead of the contract expiration date of June 30, 2023. We have held several face-to-face negotiation sessions and met multiple times through a federal mediator in hopes of reaching a resolution. Since October 6, 2023, we have met six (6) times with varying degrees of progress. Our most recent session was Sunday, October 22. All contract settlement offers by RWJUH have extended wage increases that ensure RWJUH nurses are the highest paid in the State of New Jersey compared to their peers and committed to staffing guidelines that meet or exceed current proposed legislation in New Jersey and those that have passed in states like California with mandated nurse ratios.

Let me be clear: RWJUH did not want this strike. In fact, we did everything we could to avert it. We twice accepted USW 4-200's demands and offered to go to binding arbitration or submit to a board of inquiry, but the union refused. We requested numerous times for union leadership to continue negotiating rather than strike. We informed them in July that striking workers stood to lose not only pay but also employee benefits, which require a minimum number of hours worked each month to be eligible. And we repeatedly pleaded with the union to consider the impact of a strike – especially a prolonged strike – for nurses and their families. Make no mistake, the decision to strike was the union's and the union's alone.

According to publicly available data, RWJUH nurses are the most highly paid in New Jersey and our nurse vacancy rate is nearly half the national average. As an academic medical center providing the highest acuity care, our existing staffing guidelines are established from evidence-based practice with peers nationally to address the sickest patients and volumes that are among the highest in the state. As essential members of the care team, RWJUH is committed to providing nurses with a safe and supportive work environment and a healthy lifestyle.

The negotiation team put forth by USW 4-200 to represent our nurses has often bargained outside of industry standard protocol and have presented as sometimes disorganized, unprofessional and chaotic in their approach. For example, on July 17, they signed a memorandum of agreement (MOA) with the hospital that included the union's own staffing proposal and a compensation settlement that would have ensured RWJUH nurses are paid on average 14% higher than any other nurses in New Jersey. That agreement implied a commitment by the union leadership to endorse and recommend the settlement to their membership for ratification. Instead, they extended little support for the MOA and delivered an overwhelming no-vote by the members that is extraordinarily unusual once an agreement is signed. Inexplicably, from that point forward, the union has presented no reasonable, articulate or administrable path to a settlement. This behavior, and lack of educating their members on settlement offers, is atypical of bargaining negotiations and has been non-productive.

This lack of professionalism in negotiating is tragically detrimental to our nurses who have lost wages and benefits during this strike. At one point, the union publicly claimed it was unaware that members would lose eligibility for health benefits even though an update posted by the union to USW 4-200's website in July specifically informed its members of the pending deadline.

The High Cost of Delivering Care Throughout This Prolonged Labor Action

The union's decision to walk off the job and prolong this strike has also had significant economic consequences for the hospital that we will have to carefully manage for years to come. To date, RWJUH has paid more than \$103 million for strike-related expenses, including replacement nurses with the highest levels of certification and experience in acute care and specialized clinical areas. Caring for our patients is our number one priority. We make no apologies for doing everything necessary to ensure the hospital remains fully operational and our patients continue to receive the highest quality, always-safe care. What would we have told our patient from Princeton, who waited on a heart transplantation list for more than two years, if we had not been able to accept his donor heart and transplant it into him on August 4 – the first day of the strike? Closing the hospital was never an option and will never be an option. We strongly challenge the assertion that engaging highly-skilled, compassionate and reputable agency nurses to help us at this time is anything but honorable and necessary. We owe these nurses a debt of gratitude.

That said, the compounded tragedy of this situation is that these funds absolutely could have been better utilized to further invest in patient care, staff wages, and improvements throughout the hospital. We implored the union to continue to bargain with us while our nurses stayed at the bedside, earned wages and were covered on our health and wellness programs. They elected to strike.

Closing

RWJUH stands firm in its commitment to fair and respectful wages, safe staffing standards based on patient acuity and volume, and accountability towards meeting staffing guidelines for our nurses. Accountability is not equivalent to punitive financial penalties that might actually undermine our organization's ability to deliver care to our patients and meet our community benefit mission. We will not agree to fines that have no administrative rigor and no stake by the union. This blank check request by USW 4-200 undermines their credibility as champions of patient safety and denigrates the noble nursing profession they represent.

I want to thank the Committee for affording me this opportunity to provide testimony. I hope that it aids you in important national dialog regarding the escalating costs of health care, the disparity in reimbursement to providers who front the cost of this care and the burden it places on our essential healthcare workers who want to help vulnerable people and also sustain their families. We look to our leaders to help us to identify and address the root causes of attracting fresh talent into health care, preventing burnout for those already in our noble industry and enabling an equitable and healthier public across the United States.

I am proud to share the tremendous work we do at Robert Wood Johnson University Hospital and the comprehensive care we provide. RWJUH is steadfast in its commitment to always-safe, highest quality patient care. I have the utmost respect for our dedicated nursing colleagues. Their invaluable contributions to our patients, our community and our hospital are greatly appreciated. It is my sincere hope that we can reach a fair and equitable resolution with USW 4-200 so we can welcome our nurses back as soon as possible.