

Statewide Labor Management Meeting Minutes
New York State Public Employees Federation AFL-CIO
&
Office of Mental Health
April 4th, 2025

PEF Representatives Present

See sign-in sheets

NYS OMH Representative Present

See sign-in sheets

Preapproved Ground Rules

- Agenda items shall be exchanged at least (2) weeks prior to the date of meeting and shall include a synopsis of the issue at hand as well as a proposed solution.
- Upon mutual consent items on the agenda may be tabled to the “Parking Lot” for discussion at a later date.
- The duration of the meeting shall be (3) hours
- Timeframes shall be established for addressing applicable agenda items
- Monthly meetings shall be held for information exchange
- Exchanging and approving minutes from the prior Statewide Labor Management Meeting will be a standing first item on each new agenda

Agenda Items:

1. Follow-Up on RN’s Dropping Down to Cover the Roles of TA’s
2. Lunch Breaks and Uninterrupted Meal Breaks
3. Forensic Ward Issues
4. Staffing Issues
5. Per Diem Nursing
6. Infection Control Nurses and the Joint Commission
7. Hiring Update

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1. Follow-Up on RN's Dropping Down to Cover the Roles of Therapy Aids (TAs)

- a. This continues to happen at Buffalo PC, Kingsboro and South Beach PC.
 - i. **Buffalo PC** – Nurses resistant to filling out POA forms. We typically only see 5-6 POA/month, when in reality, the number should be closer to 100. Between Charge Nurse responsibilities, medication distribution, getting and confirming orders, filling out necessary shift paperwork, and supervising patients and support staff, POA's often fall to the wayside.
 - ii. **South Beach** – RNs are counted with TAs, (this happens with regularity on the overnight shift). They're also being counted towards "minimum staffing."
- b. PEF requests that:
 - i. This practice ceases immediately.
 - ii. The Agency begin to track how often this happens in instances where its unavoidable.
 - 1. Directive is needed from the agency to facilities that they need to track this and show how often it is happening. Perhaps in a separate log maintained by the NA?
 - 2. We understand that it's supposed to be indicated on the schedule for the shift, but it often isn't, which makes data collection on the matter difficult

Agency Response:

"Anything a TA can do; a nurse can do" -Maxine Smalling

Maxine appreciates the attention on this. My position is clear – there is no such thing as TA duties in regard to the nurse schedule. I want to reinforce that. I think it might be an issue around language. Mental health TAs are assistants to the nurses, they are there to support the nurses; and if they are not there, the nurses need to fill in. That is nothing to debate about, that is what the nurses do.

If we have a situation where you have an alternate work schedule and structurally nurses are working 12 hours, say on the therapy side, leaving holes in the schedule – that is something that the nurse in charge has to deal with. Regardless of the schedule, care for that patient still has to continue.

There are points in time that on any unit, on any shift, there might not be the optimum number of staff – absolutely, that happens all the time! We get sick, we call out, we have family issues – when staffing is not at that optimal level, we all have to fill in. "There is no such thing as a nurse working as a Therapy Aid".

PEF Follow-Up:

We understand that in emergency situations nurses should expect to fill in staffing vacancies on their floor. However, this is not what we are concerned about – the nurses we are referring to are not simply filling in occasionally, they are regularly being scheduled to cover gaps where TAs should be hired and scheduled.

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Agency Response:

Maxine: South Beach has 10 nurses per unit. They are one of the most staffed hospitals. Where are those nurses? Are they coming to work? That is a separate issue.

We are aware of the KPC down-staffing, and we are actively recruiting.

Additionally, we are actively recruiting at Creedmoor PC, Hutchings PC and Greater Binghamton HC; spending \$700,000 in adds on indeed.

PEF Follow-Up:

PEF President, Wayne Spence: If South Beach PC is staffed properly, why was a nurse left alone on a night shift with a person she saw abuse someone else? She said she was afraid and still left alone.

There have been several horrifying incidents at many OMH facilities with little to no action taken.

- If we are staffed properly and that is happening, that's a major cause for concern.

Agency Response:

Maxine (direct to President Spence): You have had many meetings regarding that specific issue at South Beach. It is not acceptable for anyone to get hurt at any point in time.

We want you to trust and believe that we accept staffing numbers are critical, and we are doing everything in our capacity. OMH has taken on an enormous responsibility – here in NY there is an enormous need and demand in expertise on how we manage individuals.

What happened to “XX” (name redacted from minutes to protect the individual) stays with me personally, we are all in this together.

The commissioner and everyone here at this table are working extremely hard to avoid this issue, it shouldn't happen.

PEF Follow-Up:

PEF President, Wayne Spence: What happened to “XX” happened in 2019. I have made it clear to the Governor that we are going to change our tactics. Good day everyone.

Chris Moreau: Therapy Aid is a job title that exists. There are designated TAs for units; and when they are not there, nurses are filling in. We are not looking to fill the TA job title with RNs.

We are requesting OMH start tracking how often these instances occur, so we can address the issue and try to find solutions.

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Management Action Items:

Mike – Committed to talking with Buffalo around their staffing plans and procedures. Will respond to Labor sometime between now and the next Statewide Labor Management (SWLM) meeting.

Maxine – Committed to further investigating how Buffalo and other Statewide facilities coordinate their staffing and scheduling. She will discuss with CNO's and respond to PEF Labor by the next SWLM meeting.

PEF Action Item:

Begin tracking how often Nurses are being assigned to fill gaps where TA's have not been scheduled and include as much detail as appropriate. Provide findings to Management.

2. **Lunch Breaks and Uninterrupted Meal Breaks** – Nurses at Hutchings, Binghamton, and South Beach continued to be denied the opportunity for uninterrupted breaks. They report there is no available coverage to make these breaks a reality. As a result, they are forced to eat at the nursing station while routinely being approached by staff and patients alike. They are directed that they can't write on sign in/out sheet that they didn't take a lunch. This has been raised at Local Labor-Management meetings with regularity without the issue ever being genuinely rectified.

PEF has prepared templated grievances to be distributed and filed en masse if this continues to go unresolved.

Agency Response:

Management has discussed this at multiple LM Meetings.

They have asked if members have issues, they file a grievance; and management has not received a single one.

PEF Follow-Up:

Members are being told they cannot sign out and sign back in. It is being discussed at local LM meetings.

PEF has put together a grievance template; so, we believe those grievances will make their way up to 44 Holland.

Unfortunately, some of these Nurse Administrators are being told that they will provide a break if they can. Affirmatively this is still happening as of yesterday at North Hudson.

- Is there a way to reach out to the nursing supervisor to make sure this is happening?
 - It may be difficult to rely exclusively on their ability to cover breaks if they are the only supervisor in the building and have many additional daily tasks to accomplish.

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Agency Response:

We have regular meetings with CNOs.

People are entitled to a lunch, so they are going to get a lunch.

- *This is why management asks for specifics. We are unable to send a statewide “email blast” asking “when have you denied lunch”, it wouldn’t get any responses.*

The Charge Nurse is responsible for making the assignment for the unit. A critical part of that unit assignment is to indicate lunch breaks.

If there is a situation there is not another nurse on the unit that can cover each other, there is another nurse in the hospital. If the Charge Nurse is unable to assign breaks, then that might mean the Nursing Supervisor might cover the break.

We are very clear they should not be working more than 6 hours, the DOL is very specific on this. We aren’t interested in violating the law. This can also transition into Health & Safety; we don’t want people working for hours without a break. It is bad for the individual and bad for their patients.

PEF Follow-Up:

Chris Moreau: Can we get a concerted effort to put out a general reminder?

Agency Response:

We are happy to reinforce what the Department of Labor (DOL) rules and standards are; but those specific examples are needed to take appropriate action and use as a teaching mechanism. Especially when an employee has been told to falsify their records, please flag those for us.

Management Action Item:

Include sending out an email blast on their agenda for the next CNO meeting. They will reinforce what their expectation is and see what challenges the CNO’s have.

Management to then send the email blast out to Directors and Nursing Supervisors.

PEF Action Item:

Nurses should be talking with Local LM and supervisors to help target a review. PEF should investigate the event as much as possible and provide whatever they are comfortable with to management. As per management’s request for sufficient grounds to investigate; including a date and time if member names cannot be presented.

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- 3. Forensic Ward Issues** – PEF members report new forensic wards are opening with insufficient staff. This is most prevalent at Rochester PC. Secondary to prison closures and the ongoing staffing crisis across DOCCS, incarcerated individuals are being admitted from a multitude of correctional facilities. Central Office has previously stated that they're unable to refuse or pause admissions. Though it's difficult to provide metrics that indicate an increase in acuity, the impact has been profound. There's no way to document how destructive these admissions continue to be as staff struggle to maintain a safe and therapeutic environment. This has been broached in labor management meetings across the state. PEF recognizes the agency's inability to turn down admissions, however, we request that the agency designate "higher acuity" units in these facilities, to be staffed in such a way to provide a higher level of safety and security.

Agency Response:

Rochester and Kirby both have new forensic wards. It has nothing to do with DOCCS; those were planned a head of time.

Rochester is open, but because it is not fully staffed, it is not full.

- *It's a 28-ward bed and we only have 3 patients.*
- *We are leaving the bed count low while additional staff are onboarded.*

It is management's understanding that we have been very successful in getting staff as the Governor has made this a central platform of her administration.

Court Order Admissions: *We are not going to turn away court order admissions. At least at Rochester, we have kept the admissions low.*

We don't have a set date of when they will be fully staffed.

Once more staff is hired and onboarded, we will expand the number of patients.

PEF Follow-Up:

This is a Kirby question – when we moved one ward into the civic side, we were told the vacant ward in Kirby is a "Swing Ward". Basically, they move patients there while they work on other wards.

- What is the future of that vacant ward? Will it become a forensic ward?
 - o Our concern would be staffing if it does become a forensic ward.

Agency Response:

We are not going to open a new ward without staffing. We are not going to fill beds without staffing. We can only fill what we can staff.

Nursing recruitment is something we need to work on and continue to do. Many of our nurses opted to do travel nursing. It is about supply as well as what else is in that market.

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4. Staffing Issues

- a. PEF requests a minimum staffing of 2 RNs.
- b. PEF requests that the agency audit its Forensic Facilities to ascertain what facilities may be eligible for Hazard Pay, based on the standing criteria.

Can't reach 2 nurses per staff per unit when we don't have enough titles granted:

- 8 units, 2 shifts and 2 nurses per shift is more than is allotted.

We don't see it as a reality without allowing additional items to be provided.

- We are meeting the minimum of 1 per unit, but there are not the numbers to support the goal of having 2 nurses on unit.

Agency Response:

Whatever the consensus fill level is what OMH will staff.

Maxine: I have to follow up with Jamie – you need to have 68 nurses for the coverage of 8 units. You're supposed to have 68 nurses; we will check into it.

- *It is agreed to have 2 on days, 2 on evenings and 1 on nights every unit. This should be 5 nurses plus a relief factor of 1.7, meaning a total of 3.5 nurses at any point in time on the floor.*

PEF Follow-Up:

Is there consideration to have 2 nurses overnight?

- There's no administrative staff and no TA's.
- Is there anybody that we need to ask to add more to overnight shifts?

Agency Response:

We would love that, but for our level of care, CMS requires one nurse.

- *Do we want to do better, absolutely; but what we are trying to do is staff up and fill positions we are budgeted for.*

PEF Follow-Up:

What can we do to help get 2 nurses approved for overnight shifts? We understand that staffing overnight is difficult, but how can we help?

Agency Response:

It is a budgeting issue.

Action Item:

Maxine to confirm the fill level meets the number of nurses required per unit, per shift.

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- 5. Per Diem Nursing** – Per diems at Rochester PC are regularly be assigned to work during the week, on day shift, rather than when/where the facility has staffing voids. The per diems are often being utilized to assist the Nursing Supervisors or the Nurse Educator. PEF requests that per diems are, before all else, used to cover gaps in the staffing schedules.

Agency Response:

Part of their contract is for them to tell us when they can work. We don't have the same ability as we do with state employees to mandate scheduling.

There is a huge push to get a NY State employee over a per diem employee, if you can.

If there is a need for temp-hourly nurses, we will continue to hire them; but those temp-hourly employees are merely a band aid to the situation.

PEF Follow-Up:

Do you track which agencies are doing better than others with conversion?

Agency Response:

Yes, it relates to the number of active contracts we have in the facility as well as a collaboration with HR; we look at the totality of the contracts and look at the conversion.

- *There is some new data we got from OFM that we can share.*

Action Item:

Management to send current contracts to PEF in addition to any new data provided by OFM.

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- 6. Infection Control Nurses and the Joint Commission –** (Rochester PC) Infection Control nurses are being tasked with performing rounds for the Joint Commission. PEF has concerns that the attention diverted to the Joint Commission could have a detrimental impact on those nurses that are still responsible for their typical day-to-day job duties. PEF requests that if the ICNs are going to be utilized for this, that additional staff be hired to cover the more routine job responsibilities.

Agency Response:

Rochester has 2 ICNs and it is part of their job description to do infectious control.

The ICN position is a unique position. When we moved ICN from grade 19 to grade 22, it was the highest increase for any nurse in our system; and it is because we recognized the public health crisis of COVID 19 and the important role of infections control nurses.

- *Central Office HR Colleges worked with Civil Service to do that.*
- *We also doubled the number of ICN's per facility (they should each have 2).*

We understand the responsibilities of an ICN: they must provide oversight to see exactly how nurses are doing their job and work collaboratively with Nurse Educators and Nurse Supervisors.

- *Where is more education needed, where do we need more confidence?*

PEF Follow-Up:

There will be "Grey-Area" titles that won't be filled once they leave.

- *ICN's and Psychology titles are two of those.*

What are we considering "Grey Area" titles and are they as important as ICNs? Why would they make the list?

Agency Response:

We have a finite fill level; and within that fill level, we make decisions.

- *Prior to COVID there was one ICN per facility.*
- *Each individual facility decides how they want to fill.*
- *If they feel they are sufficiently staffed with one ICN, they are allowed to make that decision based off of unit, facility and operational need.*

Management is advocating for all facilities to have 2 ICNs, but facilities are making decisions to fill staffing where it is most needed.

Maxine: It is critically important that these new ICN's demonstrate their value. We have had up to 265 vacancies. If a facility doesn't have 2 ICNs, let me know and I will address this.

No set title is automatically a "Grey Area" title, it is more up to each facility to make those decisions based on individual staffing needs.

State service is full of positions they have no need to fill, but the titles are available!

- *Fill level isn't really representative of what we are doing to recruit.*

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Action Item:

PEF to alert Maxine Smalling of any OMH facility without at least 2 ICNs so she may address the matter.

7. Hiring Update – PEF requests information on how many teachers were hired in the past year?

- a. Is the agency seeing any issues with retention?
- b. Are there any agency incentives to aide with retention?

Agency Response:

From January-December 2024, the agency hired 14 teachers.

- *Facilities where appointments were made: Greater Binghamton HC, Capital District PC, Kingsboro PC, Mohawk Valley PC, NYCCC, Rockland CPC, Sagamore CPC and St. Lawrence PC.*

Although 14 appointments were made, there were also 10 separations:

- *3 retirements*
- *4 resignations*
- *2 probationary terminations*
- *1 promotion within OMH*

Facilities where separations occurred: Greater Binghamton HC, Capital District PC, Kingsboro PC, NYCCC, Rockland PC, Rockland CPC, Sagamore CPC and Western NY CPC.

Since January 2025:

- *NYC Kids hired 4 teachers*
- *3 IM's have been approved by DOB*
- *EQ's pending DOB approval*

PEF Follow-Up:

Can the agency provide reasoning behind the resignations? Is pay a factor? Geo-Payments?

Agency Response:

We do not have reasons behind the resignations.

OMH is the 3rd or 4th on the list employing teachers. We do feel there are salary gaps and we are looking forward to the CS Salary Review Study to see where we might be more competitive.


- *We have talked with OCFS and DOCCS – OMH agrees is well aligned with those agencies on their position to support our teachers.*

The Compensation Study that CS is working on will halt all proposals for Geo-Payments.

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End of Meeting Announcements:

1. Next SWLM Meeting Date: June 26, 2025, at PEF HQ
2. May 8, 2025: Virtual Nursing Award Ceremony
 - Lots will be shared, and OMH wants to celebrate our nurses!
3. November: 2025 Nursing Conference
 - OMH cannot express how much the Agency appreciates PEF's support in this.

X 

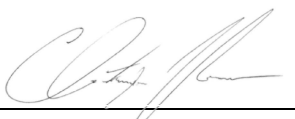
Bryce Therrien
Assistant Director, OMH

5/6/2025
Date

X 

Albert Famularo
PEF Labor Management Chair, OMH

5/5/2025
Date

X 

Chris Moreau
Statewide Field Representative, PEF

5/5/2025
Date



PEF ATTENDANCE

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PEF - OMH Statewide Labor Management Meeting

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PEF ATTENDANCE

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PEF - OMH Statewide Labor Management Meeting

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MANAGEMENT ATTENDANCE

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PEF - OMH Statewide Labor Management Meeting

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