

GNYHA Continuing Care Membership Meeting

November 14, 2023



GREATER NEW YORK HOSPITAL ASSOCIATION

*Over 100 years of helping hospitals deliver the
finest patient care in the most cost-effective way.*



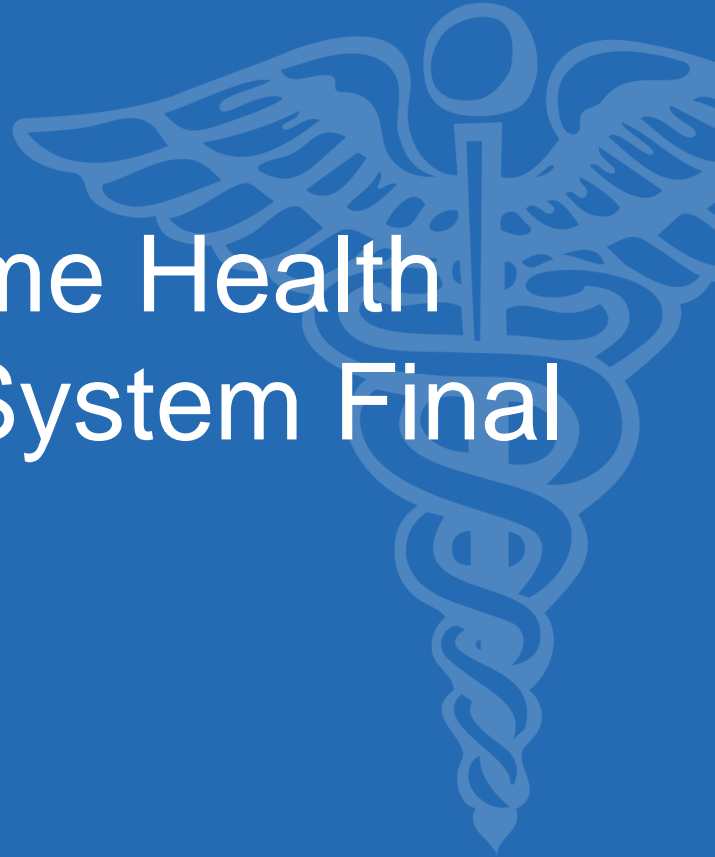
- Welcome and Introductions
- Federal Final and Proposed Rules
- Federal and State Policy Issues
- Additional Payment and Quality Updates
- Special Presentation: NYS DOH Nursing Home Surveillance Overview and Outlook
- Wrap-up

Federal Final and Proposed Rules

Joe Corwin and Roxanne Tena-Nelson



CY 2024 Medicare Home Health Prospective Payment System Final Rule



CY 2024 HH PPS Final Rule



Final Rate Updates

Provision/Adjustment	%
CY 2024 Market Basket Increase	3.3%
Productivity Adjustment	-0.3%
PDGM Permanent Adjustment	-2.6%
Fixed Dollar Loss Ratio	0.4%
Total Net Increase, CY 2024	0.8%

2023 Q3 IHS Global Inc.'s (IGI's) Forecast (2021-based HH market basket)

Other Comments

RFI on Access to Home Health Aide Services

Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting



Federal Minimum Staffing Proposal



Minimum staffing requirements proposed

- 24/7 RN on site, §483.35(b)
 - Two years after in September 2025
- Minimum nurse staffing requirement, §483.35(a)(1)(i) & ((ii))
 - 0.55 RN HPRD & 2.45 nurse aide HPRD
 - Three years after in September 2026
- 4 hardship exemption criteria: unavailable workforce, good faith effort to R&R staff, documented financial commitment to staffing, on good regulatory standing

Revise facility assessment requirements

- Documentation that meeting residents needs
- 60 days after adopted

Require State reporting

- Medicaid payments spent on compensation for direct care workers and support staff, §442.43

Federal Staffing Proposal Activity



October 20: Congress releases letter of concern

October 25: House Energy & Commerce Subcommittee on Health holds hearing on proposed regulations

October 31: GNYHA sent letter to NY delegation regarding its concerns

November 6: GNYHA submitted comments to CMS on proposed rule, CMS-3442-P

Proposed Federal Minimum Staffing Standards for Long-Term Care Facilities



Staff Type	Hours per Resident per Day	NYS Non-Compliance Rate*	Estimated \$
RN	0.55	75%	\$104M
Nurse Aides	2.45	83%	\$311M
Total Nurse	3.48	92%	\$415M

*2023 Q2 Payroll Based Journal (PBJ)

GNYHA's Comments Addressed

- Acute health care workforce shortages
- Standards fail to account for interdisciplinary care teams
- Patient case-mix is not adjusted
- Lack of available funding

GNYHA strongly opposes any Federal minimum nurse staffing requirements

"The Administration's own study is clear that there is no significant correlation between any given staffing ratio and increased quality outcomes for residents."

House Committee on Ways and Means Chairman - **Jason Smith (R-MO)**
 Energy and Commerce Committee Chair - **Cathy McMorris Rodgers (R-WA)**
 Senate Committee on Finance Ranking Member - **Mike Crapo (R-ID)**



24/7 RN Availability

GNYHA Comment: Allow SNFs to use RN telehealth supervisory and patient-monitoring technologies as an approved substitute for SNFs when an RN is not onsite

Revised Facility Assessment

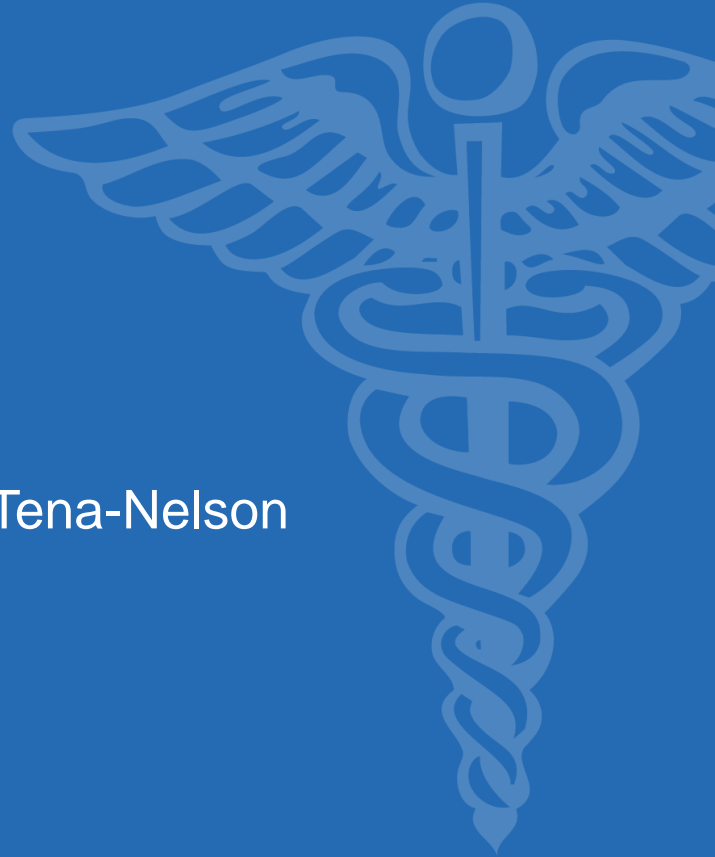
GNYHA Comment: Delay implementation from 60 days after final rule publication to two years, leverage other data sources to reduce paperwork burden, and fund the costs associated with increased resources

Medicaid Institutional Payment Transparency Reporting

GNYHA Comment: Include clinical, ancillary, and support staff titles. Incorporate all-payer revenue to align with direct-care and resident-facing staff definitions and reduce reporting burden

Federal and State Policy Issues

Jon Cooper, David Rich, Andy Title, Roxanne Tena-Nelson



12

Federal Report

Jon Cooper

Continuing Resolution Brings House to a Standstill



Continuing Resolution

- 45-day continuing resolution (CR) temporarily extending FY23 funding levels
 - FEMA funding
 - **No cuts to providers**
 - DSH cut delay until Nov. 17
 - Community Health reauthorization
- Passed with Democratic votes
- Strongly opposed by conservatives
- Passage jeopardized McCarthy's speakership and led to motion to vacate

Republicans fail to coalesce around speaker choice, leaving House in limbo





Speaker Johnson Elected



- Mike Johnson (R-LA-04), Vice Chair of the Republican Conference, House GOP's fourth nominee for Speaker
 - Served in Congress since 2016
 - Chaired the Republican Study Committee when it released its 2019 proposal to repeal the ACA
 - Called for a bipartisan debt commission to likely focus heavily on health care
- Elected on party lines: all 220 Republicans for Johnson and all 209 Democrats for Jeffries
- Staff: Dan Ziegler, pharmaceutical lobbyist, Policy Dir
- First goal: unify the Republican Conference and prevent a government shutdown on November 17



Congressional Calendar & Deadlines

November

			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December

					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

- House & Senate in Session
- Senate in Session Only
- House in Session Only

Date	Event
Nov. 17	<ul style="list-style-type: none"> ▪ CR ends ▪ Onset of Medicaid DSH Cuts ▪ Reauthorizations expire

Congressional Agenda

- Federal Funding
- War Supplementals
- Border Security
- Health Extenders (Including Medicaid DSH)

Approaching November 17



- Continuing resolution ends Nov. 17
- FY2024 appropriations standoff will continue
 - House Republicans and Senate Democrats continue to push contrasting funding bills
 - House Republicans hope to pass all 12 FY 2024 appropriations bills in regular order
- Congress must address \$106B Biden “national security” supplemental request for Ukraine & Israel aid



Shutdown Impacts on Providers



- **Medicare and Medicaid payments** would continue as normal
 - Processing delays possible due to staff furloughs
 - Personnel shortages could delay approvals for Medicaid State Plan Amendments
- **FEMA:** Processing delays due to staff furloughs





Debt Commission



“The consequences if we don't act now are unbearable. We have a duty to the American people to explain this to them so they understand it well,” said Johnson, who as House speaker is second in line of presidential succession behind Vice President Kamala Harris. **“We are going to establish a bipartisan debt commission to begin working on this crisis immediately,”** Johnson added.

GNYHA Capitol Hill Agenda



GNYHA Message

- Providers are navigating extraordinary challenges
- Inflation + COVID-19 expenses + workforce challenges
- Financial struggles jeopardize access to care

GNYHA Advocacy Priorities

- NO cuts to providers
- Enhance health care workforce
- Delay or eliminate Medicaid DSH cuts

COALITION TO PROTECT
AMERICA'S
HEALTH CARE



State Report

David Rich, Andy Title, Roxanne Tena-Nelson

Welcome to Chatodd Floyd, JD



Senior Vice President, Legislative Affairs



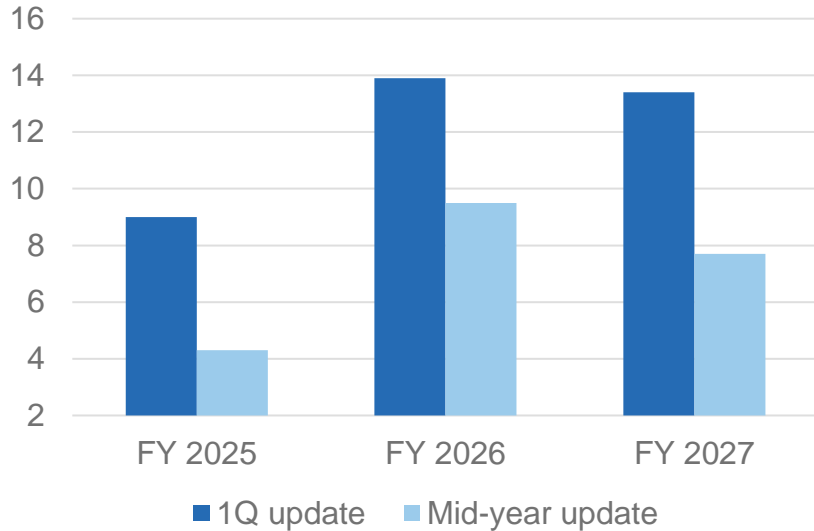
Background

- Deputy Secretary for Legislative Affairs and Policy, NYS Governor Kathy Hochul
- COVID-19 issues with NYS Governor's and NYC Mayor's offices
 - Personalized protective equipment
 - Vaccine equity
 - Wind down

State Budget Picture



Projected deficits (\$ billions)



Gov. Hochul (9/26):

- “Two solid years of record spending . . . is not the path we can continue on.”

DOB to agencies:
zero growth

Factors

- Migrant costs, lower-than-expected spending, economic uncertainty

Cash on hand



Healthcare justice for all New Yorkers

1

Reduce health care disparities and improve health outcomes for low-income, predominantly black and brown communities.

2

Increase hospital Medicaid reimbursement to 100% of cost by 2028.



Politico, City & State, Empire Report, etc.



Television



Legislative Update

Passed Bills: Process



Legislature must deliver to Executive before January 1

- First house to pass “controls” delivery
- Governor normally “calls up” bills in batches

Governor has 10 days to sign or veto

- Not including Sundays

If Legislature adjourns, Executive gets 30 days to act

- Unlikely to happen: entering year 2 of session

2023 Bills: By the Numbers

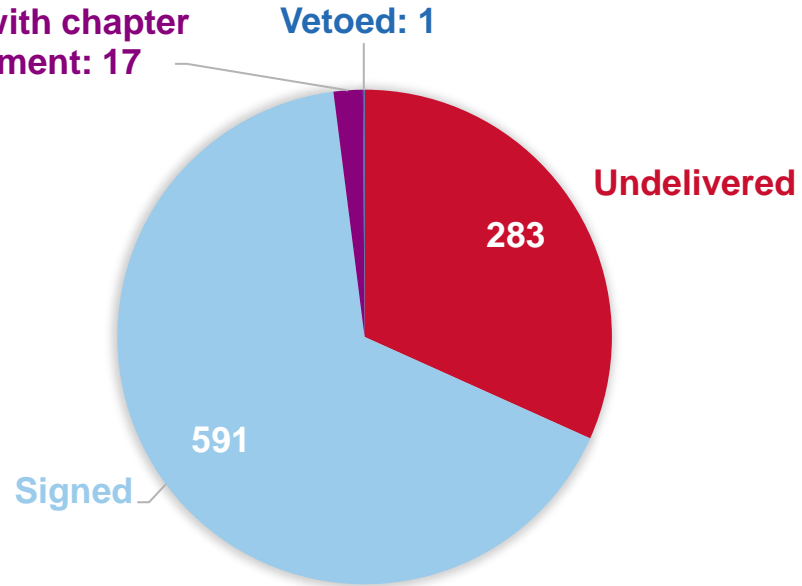


Signed with chapter agreement: 17

Vetoed: 1

Undelivered

Signed





Wrongful Death

- A.6698/S.6636
- Allows damages for “grief” and “anguish” in wrongful death cases
 - Currently based on earnings
- Gov. Hochul vetoed similar bill in January

Wrongful Death: Competing Headlines



City & State

A message from Academy of Trial Lawyers

Forty-eight states have amended their wrongful death laws to include emotional loss, but greedy insurance companies in New York are fighting tooth and nail to BLOCK the Grieving Families Act.

Governor Hochul, don't let powerful interests win out over working people: **Sign the Grieving Families Act!**

Albany Times Union

Commentary: Grieving Families Act will help address maternal health care disparities

The accountability the measure creates will help improve women's health outcomes — if Gov. Hochul signs it this time.

Buffalo News

Another Voice: No evidence premiums will rise with Grieving Families Act

Crain's NY

Local governments join push against wrongful death bill, urge Hochul to veto

Democrat & Chronicle

Kathy Hochul must veto wrongful death damages legislation. It will harm NY health care

Times Union

Commentary: Wrongful-death liability bill is the wrong plan for New York

Other key legislative updates



Governor signed laws

- About coverage for medically fragile children (A.4135/S.1319)
- To extend Long-Term Care Ombudsman Program access to assisted living facilities (A.7199/S.6907)
- To expand the use of non-patient-specific standing orders (A.6030C/S.6886A)

Passed and not delivered bills

- To establish a 4-year nursing home demonstration project to reduce the use of temporary staffing agencies in nursing facilities and a joint labor-management workgroup to assess the impact. ([A.7328/S.6897](#))
- To study issues impacting the continuum of caregiving in the state and report to Governor and Legislature ([A.4275/S.5980](#))
- To establish the lesbian, gay, bisexual and transgender, and people living with HIV long-term care facility residents' bill of rights ([A.372A/S.1783A](#))

2024 Session Preview



January 3: Start of session / State of State*

January 16: Budget submission deadline / Budget address*

April 1: End of fiscal year

April: Holiday break

Mid-June:* Last day of session

June 27: Primaries

November 7: General election

Local NYC Election Results



□ District 13 (Bronx)

- *Marjorie Velázquez (D)*
- ✓ □ **Kristy Marmorato (R)**

□ District 19 (Queens)

- Tony Avella (D)
- ✓ □ *Vickie Paladino (R)*

□ District 20 (Queens)

- ✓ □ **Sandra Ung (D)**
- Yu-Ching James Pai (R)

□ District 43 (Brooklyn)

- ✓ □ **Susan Zhuang (D)**
- Ying Tan (R)
- Vito LaBella (C)

□ District 47 (Brooklyn)

- ✓ □ **Justin Brannan (D)**
- *Ari Kagan (R)*

□ District 48 (Brooklyn)

- ✓ □ Amber Adler (D)
- **Inna Vernikov (R)**

Election Takeaways



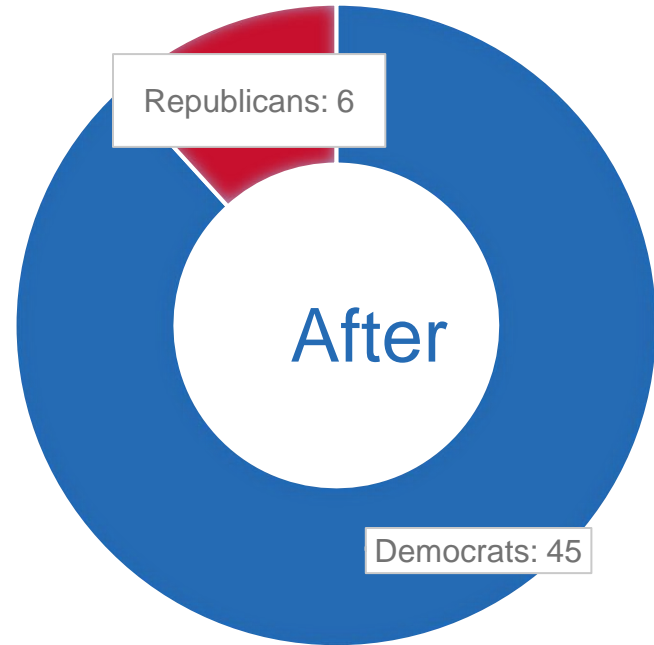
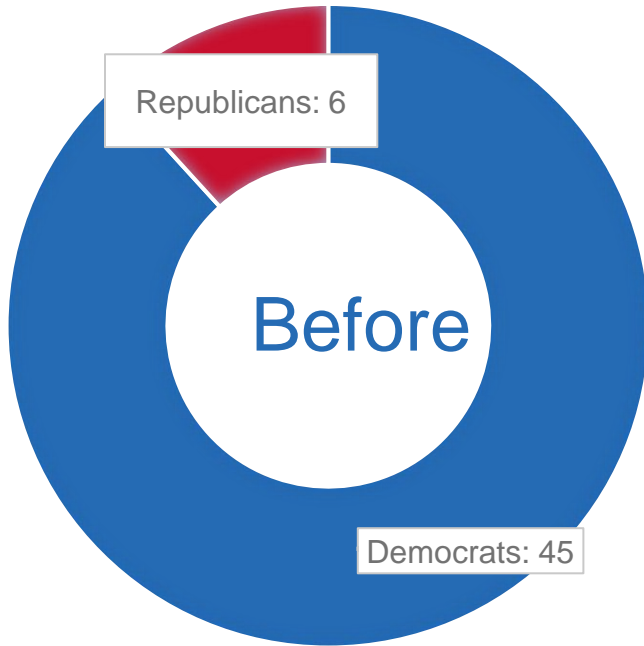
Migrant
crisis

Budget
issues

Hyperlocal
concerns
(e.g.
zoning)

Low voter
turnout

City Council



Other State Developments



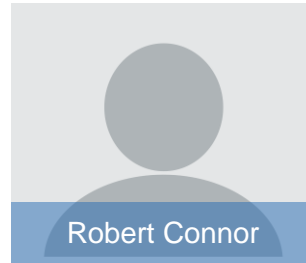
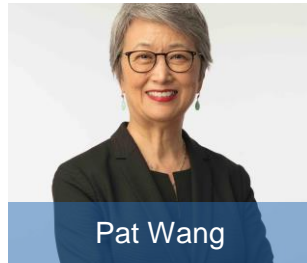
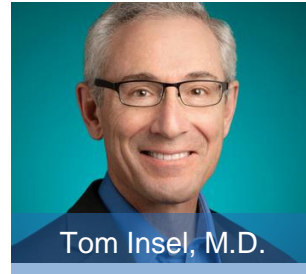
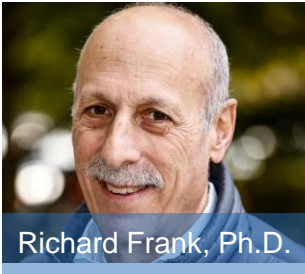
Goals

- Ensure long-term resilience of health system
- Optimize resources of State, other health care payers
- Develop plan for struggling hospitals

Meetings not public

Recommendations due before 2025

Members



GNYHA -1199SEIU Response



- The Commission's focus areas and long-term goals are worth exploring for the future, but the needs of New York's health care providers and their patients are now
- Launched a comprehensive campaign to educate New Yorkers of chronic Medicaid underpayments threatening access to care

NYS Master Plan for Aging



Ongoing Activities

- Town Halls
- Stakeholder Advisory & Agency meetings
- Subcommittee meetings
- Workgroup meetings

Goals of Survey

- Seeks to understand the living conditions, care and service needs, and the areas of focus New Yorkers would like to see addressed in the MPA
- Answers received to inform recommended strategies, policies, and new or improved programs for inclusion in the MPA

Deadline: Dec 31, 2023

<https://www.ny.gov/programs/new-york-states-master-plan-aging>



Master Plan for Aging Survey

New York is seeking input from older adults, individuals with disabilities, and caregivers.

→ [Download a Printable Survey](#)

**TAKE THE SURVEY
ONLINE**

Andrew Lebwohl, Director
Center for the Master Plan for Aging

State Regulatory Issues



Shaping the Future of Nursing Homes in New York State

- DOH convened NH associations
- Discussions: Medicaid payment gap, NYS NH quality, State budget priorities

GNYHA meetings with DOH NH Program

- Nursing facility survey updates & issues

DOH Office of Aging and Long-Term Care

- LTC associations and key OALTC staff
- COVID-19 monitoring & infection prevention and control strategies

Additional Payment and Quality Updates

Scott Gaffney





State Payment Updates

Medicaid Rate Update (Effective April 1, 2023)

- DOH released 6.5% increase Nov. 1
- SPA still outstanding for remaining 1% increase

CINERGY

- Still waiting for FY 2024 federal share; SPA is outstanding

Advanced Training Initiative (ATI)

- ATI survey letter sent out Nov. 9; survey due Nov. 27 for eligible facilities for FY 2024 program dollars

NYS Minimum Staffing Dollars (FY 2023)

- SPA outstanding for Federal dollars
- No hospital-based nursing home payments (State or Federal) have been made to date

GNYHA and LeadingAge NY Joint Financial Survey Reminder



GNYHA and LeadingAge NY

- Will use survey results to advocate for increased NH investments at the State and Federal levels

Data Requested (2022 and 2023)

- Operating Revenue
- Operating Expenses
 - Labor Expenses (Employed, Contracted) and Non-Labor Expenses

Original Due Date: November 6

- Currently have about 50% of membership's responses

Contact Joe Corwin with any questions

GNYHA Care Compare Performance*



Care Compare Components

	GNYHA	NYS
Overall Rating	3.36	2.86
Health Inspection Rating	3.00	2.71
QM Rating	4.09	3.77
Long-Stay QM Rating	4.04	3.66
Short-Stay QM Rating	3.80	3.56
Staffing Rating	2.93	2.20

Staffing Metrics

Turnover

- Lower RN and total nursing turnover

Case-Mix Adjusted Hours

- Higher case-mix total nurse HPRD

Weekend Staffing

- Higher RN and total nurse HPRD

Special Guest Presentation:
New York State Department of
Health Nursing Home Surveillance
Overview & Outlook



Closing Remarks



Contact Information



Roxanne Tena-Nelson

212-506-5412

tena-nelson@gnyha.org

Finance: Joe Corwin

212-506-5453

jcorwin@gnyha.org

Jenifer Fergusson

212-506-5426

fergusson@gnyha.org

Emergency Prep: Lisa Fenger

347-501-2802

lfenger@gnyha.org