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Testimony of Bonnie Castillo, RN

On Behalf of National Nurses United
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Hearing on "No Worker Left Behind: Supporting Essential Workers"

Good morning and thank you, Chairwoman Maloney, Ranking Member Jordan, and members of the committee, for giving me the opportunity to testify here today. My name is Bonnie Castillo; I am a registered nurse and am executive director of National Nurses United (NNU), the largest union of registered nurses (RNs) in the United States. We represent more than 155,000 nurses across the country. Over the past four months, our nurses have been on the frontlines of the coronavirus response at the hospital bedside, caring for patients throughout this horrific pandemic.

In my testimony, I will first explain what the situation has been like for nurses responding to this pandemic in hospitals and identify the main challenges they have faced in their work. I will then offer an assessment on the Pandemic Heroes Compensation Act, and NNU's recommendations on the policy interventions that our nurses need immediately.

Since the outbreak of the novel coronavirus began, nurses have been risking their lives every day to provide patient care to those in need. Across the country, they have been denied the necessary protections to prevent exposure to COVID-19. As a result, based on the Centers for Disease Control and Prevention (CDC) data, at least 20% of COVID-19 infections have occurred amongst health care workers, but we predict this in an underestimate given the lack of reporting of health care worker infections and deaths. As of June 5, NNU knows of the deaths of at least 914 healthcare workers, of which more than 134 have been registered nurses. The majority of these infections and deaths could have been prevented if health care facilities had provided their workers with the necessary protections.

NNU began preparing for the COVID-19 pandemic in mid-January. While there were not yet any confirmed cases of the novel coronavirus in the United States, we knew from international reporting and discussions with nurses in other countries that it was only a matter of time before this virus was identified here. Our immediate concern was ensuring that nurses across the country would have the workplace protections they needed to safely care for COVID-19 patients.

There is a multitude of scientific research that has identified the optimal personal protective equipment (PPE) for health care workers who may be exposed to aerosol transmissible diseases. Health care workers should use respirators, face shields, gloves, coveralls or gowns, shoe coverings, and eye protection. An N95 respirator provides the minimum protection needed, while other reusable respirators, including Powered Air Purifying Respirators (PAPRs) provide higher protection. When

nurses do not have the optimal PPE for aerosol transmissible diseases they are at risk of exposure and infection. In emerging infectious disease events like COVID-19, it is of the utmost importance that health care employers and public health agencies follow the precautionary principle—we cannot wait until we know for certain that something is harmful before action is taken to protect people's health.

In February, we began a survey of nurses across the country to assess hospital preparedness. It was made clear very quickly that most hospitals did not have the PPE, training, or pandemic response protocols necessary to respond effectively and safely to an outbreak of this emerging infectious disease.

In survey results released on March 20, in which more than 6,500 nurses responded from 48 states, plus the District of Columbia and the Virgin Islands, we found that:

- Only 29 percent reported that there was a plan in place to isolate a patient with a possible novel coronavirus infection; 23 percent reported they did not know if there was a plan.
- Only 63 percent reported that they had access to N95 respirators on their units; only 27 percent reported access to PAPRs on their units.
- Only 30 percent reported that their employer had sufficient PPE stock on hand to protect staff if there was a rapid surge in patients with possible coronavirus infections; 38 percent did not know.

Since mid-April, we have been gathering responses to a second survey which is collecting information on workplace protections, testing, and COVID-19 infections among nurses. The preliminary results, released on May 12, show the continued failures by healthcare employers and the government. These preliminary results report on responses from nearly 23,000 nurses from 50 states plus the District of Columbia and four territories, and found the following:

- **84 percent of respondents have not been tested for COVID-19.** Among nurses who have been tested, more than 500 nurses reported a positive result with another 500-plus nurses still waiting for results at the time they took the survey.
- **87 percent of respondents reported having to reuse a disposable respirator or mask with a suspected or confirmed COVID-19 patient.** Reusing single-use PPE is a dangerous practice that can increase exposures to nurses, other staff, and patients.
- **28 percent of respondents had to reuse a decontaminated disposable respirator with confirmed COVID-19 patients.** Decontamination of disposable respirators has not been shown to be safe or effective, can degrade the respirator so that it no longer offers protection, and some methods use chemicals that are toxic to breathe. Employers are increasingly implementing PPE "decontamination" to save money, endangering nurses' lives in the process.
- **72 percent of nurses reported having exposed skin or clothing when caring for suspected or confirmed COVID-19 patients**, leaving nurses and their colleagues at increased risk of being exposed to the virus at work.

- **27 percent of nurses providing care to confirmed COVID-19 patients reported having been exposed without the appropriate PPE and having worked within 14 days of exposure.** This puts their coworkers and patients in danger. Employers must ensure that nurses and other health care workers are fully protected at work and, if they are exposed, that they are put on paid quarantine to protect their families, coworkers, and patients.
- **33 percent of nurses reported that their employer requires them to use their own sick leave, vacation, or paid time off if a nurse gets COVID-19 or is exposed to COVID-19 and needs to self-quarantine.** If a nurse gets COVID-19, it should be presumed to be work-related, and they should receive emergency paid leave covered by workers' compensation.

As demonstrated by the survey results, more than four months into this pandemic nurses across the country still do not have the appropriate PPE or access to COVID-19 testing that is necessary to keep our nurses, patients, and their communities safe. This has dreadful, and potentially deadly, consequences for nurses and their families.

In countless hospitals across the country, instead of using respirators, nurses have been forced to use surgical masks, cloth masks, or even their own bandanas and scarves. These masks do not provide protection against exposure to COVID-19. At best, they provide a small degree of protection for the wearer, but not to the person wearing the mask. Across the country, hospitals quickly ran out of gloves, coveralls, and gowns. In New York City, the epicenter of the pandemic, nurses were forced to wear garbage bags as make-shift gowns.

Hospitals have focused their attention on getting PPE to nurses in COVID-19 ICU units and have often failed to provide any PPE to nurses in other units. This includes nurses in Patients Under Investigation (PUI) units, who are caring for COVID-19 patients before they are moved to the ICU. For example, at the University of Chicago Medical Center, ICU nurses in the PUI unit accounted for 90% of all COVID-19 infections amongst nurses in the hospital, because they were not given the same level of protection as nurses in the ICU treating confirmed COVID-19 patients. Nurses in seemingly unrelated units in the hospital have also been exposed from asymptomatic patients or patients who do not exhibit the most common symptoms of the virus.

More than a month ago, nurses in the telemetry unit at the Kaiser Permanente hospital in Fresno, California, were caring for a patient who was not exhibiting the most common COVID-19 symptoms and, therefore, was not tested for the novel coronavirus. Nurses on the telemetry unit were given no PPE even though the patient should have been treated as a suspected case of COVID-19. The horrible, yet predictable, result was that 12 registered nurses became ill from exposure to this patient, and tragically, two weeks ago, one of those nurses passed away in the ICU of the hospital where she worked. Her death could have been prevented if the hospital provided optimal PPE for all their workers.

Today, in hospitals where nurses are given N95 respirators, they are forced to reuse those disposable respirators, sometimes for days on end. N95s are manufactured to be used for single use only, and not meant to be worn for more than a few hours. Nurses are being put at risk of exposure every time they reuse an N95. Employers have told nurses to use N95s for extended periods of time, to reuse them

between different patients, and then require nurses to place N95s in paper bags at the end of their shift to use for multiple days or weeks.

In the past two months, hospitals have begun to mandate that nurses use N95s after they have been through a so-called "decontamination" process. There is no scientific evidence that any decontamination method is both safe and effective. But the FDA pushed through emergency use authorization to bypass normal safety regulations and the Pentagon awarded a $415 million federal contract to Battelle to use nurses as guinea pigs on these untested systems. Nurses report that, when N95s are returned after undergoing decontamination, the masks are deformed, with loose elastic bands, and no longer fit securely to provide the proper seal necessary for the mask to be effective. Often, nurses say the masks smell of chemical agents used in the decontamination process. Many of our nurses are concerned about being exposed to carcinogenic chemicals when wearing these masks after decontamination methods.

When nurses are exposed to this virus, it is not safe for them to provide patient care for a minimum of 14 days after exposure. As a direct result of inadequate PPE and a lack of isolation protocols, large numbers of health care workers have been unnecessarily exposed and then need to step away from the bedside in order to quarantine, putting further stress on staffing levels in hospital units. For example, the first patient with known community transmission of COVID-19 received care at the University of California, Davis Medical Center, where NNU represents the RNs. As a result of the lack of protective equipment, exposure to that one patient resulted in 124 healthcare workers needing to quarantine for two weeks. This risk of exposure could be eased by implementing proper engineering controls, including prompt screening and isolation of suspected or confirmed COVID-19 patients, and by providing nurses with sufficient PPE.

In many places, hospitals have not allowed nurses to take the necessary isolation protocols after exposure, therefore putting more workers and patients at risk of infection. Further, many hospitals have failed to communicate suspected or confirmed COVID-19 cases to all workers who may have been exposed to the patient or coworker. This has left countless healthcare workers unaware of potential exposures.

Additionally, it has been extraordinarily difficult for nurses to get tested after exposure to coronavirus. Without easy access to testing, nurses are left wondering if they have contracted the virus for weeks on end. In some places, nurses who have tested positive for COVID-19, have been told to continue working if they are asymptomatic. This is extraordinarily dangerous given the scientific evidence of transmission from asymptomatic carriers of the virus.

Additionally, employers appear eager to use antibody testing of health care workers to limit provision of PPE for those who test positive, baselessly claiming that those workers are immune to COVID-19. Health care employers must not use antibody testing to remove or downgrade protections for nurses and other health care workers. A positive antibody test does not mean someone is immune. Equating a positive antibody test result with immunity is irresponsible given that current scientific research has yet to show that antibodies provide immunity and given the unreliability of existing serology tests. Moreover, the targeting of health care workers in these studies to learn more about immunity and

antibody testing raises serious ethical concerns. The lack of PPE plus concerted targeting of antibody testing essentially amounts to a widescale experiment being conducted on nurses and other health care workers without their consent. Premature reliance on serology testing could have deadly consequences and undermine efforts to control the spread of infection.

There are three main reasons why nurses have not been protected at work. First, there is no federal OSHA infectious disease standard that enforces workplace protections in hospitals during a pandemic. This has allowed hospital employers to repeatedly refuse to provide nurses with the necessary protections. Hospitals that have PPE in stock have refused to give it to nurses. Nurses have had to fight hospital management to unlock supply cupboards and allow them to access N95 respirators, gloves, coveralls, gowns, and other protective equipment. The moment that the outbreak began, hospitals across the country started locking up their PPE, claiming that there would be shortages at a later time and that they would be unable to purchase more.

Employers have also used weakened guidance from the CDC to justify their failure to protect nurses and other health care workers. At the beginning of the outbreak, the CDC's original guidance on protecting health care workers during this pandemic was correct – it recommended that all workers be provided with a respirator, at minimum an N95 respirator, when providing any patient care to those with suspected or confirmed coronavirus infection. However, by the middle of March, the CDC weakened their recommendations to allow hospitals to only provide surgical or cloth masks to health care workers, even though such masks do not offer any protection against aerosol transmissible diseases. To this day, the current CDC guidance is irresponsible, is not based on science, and is putting all health care workers at risk. To properly protect health care workers and our patients, CDC guidance should be based on science, not an inventory of supplies; the CDC has failed miserably in carrying out its mission in this regard.

Second, federal and state government efforts to distribute PPE from stockpiles have been ineffective, and frontline workers have not seen the equipment supposedly delivered. We do not have a national medical supply chain system that is coordinated, transparent, or efficient. There is no accounting of the stock of PPE and necessary medical supplies within facilities, and therefore no way of tracking on a state or national level where there is an urgent need for these supplies during a pandemic. Not only should federal and state government be accountable for their stockpiles, but employers should be required to report data on their stocks of necessary medical supplies, including PPE.

Third, there is simply not enough stock of respirators and other necessary PPE in the country, and the Trump administration has refused to increase the production of supplies in the volumes required so that our frontline workers will be protected. For example, in March, the U.S. Department of Health and Human Services estimated that the country would require 3.5 billion N95 respirators to see us through the pandemic. On June 1, the White House expressed pride that it had "delivered" 92.1 million N95 respirators thus far. Even if this number of N95s have been delivered, this number is less than 3% of the required N95s that the Trump Administration's own HHS has said is necessary. However, there is no evidence that any of these N95s have reached the hands of nurses, and given the lack of transparency in the emergency medical supply chain system overseen by this Administration, we should not take that statement at face value.

These failures have created a deeply traumatic situation within hospitals across the country, and our nurses are dealing with that trauma every single day. The toll that this virus has taken on communities is horrific, and nurses are caring for patients whose bodies have been ravaged by this virus. As the families of patients are not allowed in the hospital, nurses take on the responsibility of helping patients feel loved and cared for when they cannot see their own families.

Nurses know that they are at high risk of contracting COVID-19, and they are living with the daily fear that they will become infected themselves, and that they will pass it on to their families, their friends, or their patients. Many nurses have been isolating away from their families for more than three months now – some are sleeping in their garages or cars, others in separate rooms in their homes. Nurses with young children are not hugging or holding their kids. They cannot assist with homeschooling since schools have been closed, or in preparing meals or putting their kids to bed. The fear of contracting COVID-19 is even more pronounced for nurses who may be at high risk of serious illness because of their age or health, or who have family members at high risk of serious illness.

This experience is isolating as nurses work tirelessly during their shifts to save the lives of patients who are suffering from this virus. Moreover, at a time when family members need to draw comfort and support from one another, nurses and their families are deprived of this comfort and support. In addition, nurses' family members must worry about their loved ones on the front lines. Thus, entire families are making tremendous sacrifices.
The response to this pandemic did not have to be this way. Our hospitals should have been and could have been better prepared with stockpiles of PPE and with plans to handle COVID-19 surges and implement precautions to limit exposures within facilities. Unfortunately, our for-profit health care system operates under a "just-in-time" model, in which hospitals only purchase necessary equipment when it is needed in order to reduce expenses and increase profit. Nurses knew that the pandemic was on its way back in January – why weren't the hospitals preparing then? Why wasn't the Administration and Congress preparing then? Hospitals have a responsibility to have plans in place to respond to emerging infectious diseases, yet time and time again they fail to do so, and nurses, other health care workers, and the public are put at risk.

If one compares the U.S. response to that of other countries, this failure is even more stark. Not only did the United States surpass China and Italy as the epicenter of the pandemic, with almost 2 million people infected thus far and over 110,000 dead, the United States leads the world in the numbers of nurses dead from COVID-19. Other countries have dealt much more responsibly in battling the pandemic. In Taiwan and South Korea, there has not been a single nurse fatality. Canada has had only one nurse fatality. Spain, which suffered greatly from the pandemic, has had only four nurse fatalities thus far. But, as I indicated earlier, the United States has suffered at least 134 nurse fatalities—and that just reflects the nurses whose names we know. Undoubtedly, the number is much higher and there is no end in sight.

Now as plans on reopening the country are well underway, our nurses face increased risk. The point of social distancing policies is to slow the spread of the virus to reduce the number of people infected and to prevent a rapid surge in patients needing acute care that would overwhelm the health care system

causing patients that could have been saved to die needlessly. Our slow response and lack of preparation indeed has resulted in an estimated 36,000 needless deaths, according to a study from Columbia University. Our health system should have spent the past five months scaling up our testing and treatment capacity and improving our medical supply chain so that we could better handle an influx of coronavirus patients without compromising the safety of nurses and other health care workers. Unfortunately, the Administration, Congress, and the for-profit health system have failed to do that. As a result, the reopening of the economy is likely to result in a second wave of COVID-19 infections without any of the protections that nurses and other workers need to keep themselves safe.

Importantly, health care facilities that are re-opening procedural and outpatient areas must end all crisis standards of care, including all regulation or oversight waivers implemented on an emergency basis. This means they must resume optimal standards of care everywhere, including inpatient, procedural, outpatient, and other areas. Any reuse, extended use, decontamination, or other unsafe PPE practices must end, and full, optimal PPE must be provided to nurses and other health care workers in inpatient, procedural, outpatient, and all other areas. To prevent transmission of the virus within the facility and to protect nurses and other health care workers from exposure, hospital reopening procedural areas must:

- Screen all patients for active viral infection using a reliable RT-PCR test before or upon arrival at the facility.
- Delay procedures for any patients who tests positive, if possible. If not, COVID-19 positive patients should be cared for in a designated COVID-19 procedural area.
- Screen all patients testing negative for epidemiological risk factors including, but not limited to ill contacts, international travel, and potential for occupational exposures.
- Implement measures to limit introduction of the virus and spread within the facility using the three-zone model and other important protections detailed in NNU's Safety Requirements for Hospitals Reopening Procedural and Outpatient Areas.

I want to take a moment here to underscore one profoundly important assessment that nurses have made during this pandemic – racism is a public health crisis. A vastly disproportionate number of people who are either infected by or die of COVID-19 are Black, Latinx, or Native American. Racism is the root of COVID-19's disproportionate harm on Black, Latinx, and Native American communities. The racism that is deeply embedded in our profit-driven health system and the disproportionate number of essential workers who are people of color has driven the colossal toll this pandemic is taking on Black and Brown communities.

Over the past two weeks, there has been a national uprising protesting the brutal police violence against Black people in our country. The same racism that allows police to kill and harm Black people, also causes the deep systematic failures of our public health system to protect Black lives. Over the course of the past 40 years, federal, local, and state governments have heavily invested in an expanding military police presence in communities of color, while failing to invest in the health and social services needed. As a result, many communities live without easy access to a hospital or doctor, but interface with police daily. During the pandemic, Congress has favored relaxation of workplace safety and health regulation

over ensuring that communities of color receive the testing and treatment that they need. Nurses are wearing garbage bags and are being forced to reuse deformed N95s, while police are decked out in riot gear.

The horrific police violence that resulted in the deaths of George Floyd, Breonna Taylor, and countless others, and the failure of our health system in communities of color during the coronavirus pandemic, shows us clearly that it is time for federal, state, and local governments to change their budget priorities.

Congress has yet to earmark appropriations towards PPE for nurses and other healthcare workers on the frontlines of the pandemic while state and local law enforcement have been appropriated $850M for overtime, PPE, supplies, and training. To say that we have our priorities wrong is an understatement. This is consistent with the historic prioritization of funding law enforcement, the devaluation of nurses' and other care workers' labor, and racial inequality in our health care system. During this pandemic, Congress has failed to ensure not only that the lives of nurses and other healthcare workers' matter, but it has failed to ensure that the lives of Black and Brown people matter.

The COVID-19 pandemic is far from over, and with states beginning to re-open, we could see a second wave of infections. It is critical that Congress immediately and finally pass legislation now that will protect nurses and other frontline workers, and will protect them during pandemics in the future.

I would like to first address the Pandemic Heroes Compensation Act proposed by Chairwoman Maloney. NNU applauds HR 6909 and the provision of compensation to nurses and other essential workers who contract COVID-19 or for our families if we die from the disease. I have personally led online vigils for the registered nurses that have died during this pandemic, and I know that their families need our support. I commend the Chairwoman for proposing this legislation.

But we also need Congress to take action immediately to prevent those infections and deaths from happening. Providing nurses with special compensation or benefits when we are exposed to, contract, or die of COVID-19 does not excuse our employers or the government from their legal and moral obligations to provide safe workplaces for nurses and other essential workers.

Employers and policymakers have been calling us heroes for sacrificing our lives and potentially our families' lives as we work on the frontlines of the pandemic. But, at the same time, they have failed to provide nurses with the equipment and policy measures that would protect us, our families, and our patients. Any compensation or benefit provided to nurses or other essential workers for the increased risks we bear during the pandemic will never be an adequate substitute for providing us with protections that we know can reduce the risk of exposure to COVID-19.

NNU applauds the U.S. House of Representatives for passing the HEROES Act which would ensure protections for nurses and other frontline workers during this pandemic. The bill includes a mandate that the Occupational Safety and Health Administration promulgate an emergency temporary standard to ensure that all frontline workers are given the optimal protections from COVID-19, as well as provisions that would ensure that the Defense Production Act is fully invoked to immediately increase

the domestic production of respirators and other PPE, and to institute new accountability and transparency measures for states and the federal administration to track PPE stock and distribution. The COVID-19 pandemic has laid bare the failures of our medical supply chain system, and this provides us an opportunity to build a medical supply chain system that is coordinated, transparent, effective, and efficient.

It is essential that these provisions are included in any compromise negotiated with the Senate. We strongly urge members of the committee to ensure that Congress stand by frontline caregivers and not pass another stimulus bill without these provisions.

In summary, health care employers, Congress, and federal, state, and local governments have failed to protect nurses during the COVID-19 pandemic. For more than 4 months, nurses have been working to save the lives of patients, while risking their own. We still do not have the protections we need. We know that the pandemic may continue for many more months and potentially years. Without these protections, nurses will continue to unnecessarily become infected and nurses will continue to unnecessarily die from COVID-19 even though we know what is needed to protect us.

Congress must step up and take action to get us those protections immediately and to ensure that employers continue to provide nurses with these protections until the pandemic ends. Once that has happened, we must reckon with the failures of our country's response to this pandemic and the fundamental failures of our health care system exposed by the pandemic. We must build a fair and just health care system that, in the next pandemic, will prevent the unnecessary infections and deaths that we have witnessed during the COVID-19 pandemic.

Attachments:

1. National Nurses United letter to the CDC. February 19, 2020.
2. National Nurses United Letter to White House, Congress on COVID-19 preparations and response. March 2, 2020.
3. National Nurses United Petition to the Occupational Safety and Health Administration for an Emergency Temporary Standard in Response to COVID-19. March 4, 2020.
4. National Nurses United letter to the Committee on Oversight and Reform re: changes to the CDC's Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 in Healthcare Settings. March 12, 2020.
5. National Nurses United Letter to President Donald Trump re: Defense Production Act. April 2, 2020.
6. Fact Sheet: Nurses Need Urgent Congressional Action to Save Lives During this Pandemic.
7. NNU Recommendations: Model Standards for COVID-19 Surge, Hospital Preparation, Response and Safety. April 20, 2020. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0420_Covid19_ModelStandardForSurge_Flyer.pdf.

8. NNU Statement: Position on COVID-19 Public Reopening. Last Update: May 1, 2020. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0520_Covid19_PositionOnPublicReopening_Flyer_NNU.pdf.

9. NNU Recommendations: Safety Requirements for Hospitals Reopening Procedural and Outpatient Areas. May 4, 2020. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0520_Covid19_H%26S_HospitalReopeningSafetyRequirements.pdf.

10. Issue Brief: Decontamination and the Battelle N95 System. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0520_Covid19_H%26S_BattelleDecontamination.pdf

11. Issue Brief: Antibody testing for SARS-CoV-2/COVID-19. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0420_Covid19_IssueBrief_AntiBodyTesting1.pdf

12. Frequently Asked Questions on Reuse and Extended Use of N95s. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0420_Covid19_N95_FAQ.pdf

13. Frequently Asked Questions on COVID-19. Last Update: May 26, 2020. Available at https://act.nationalnursesunited.org/page/-/files/graphics/0520_Covid_19_FAQ_052620.pdf