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Ken Shulman Assistant  
Comptroller  
Office of the State Comptroller  
Division of State Government Accountability 110  
State Street, 11th Floor  
Albany, New York 12236

RE: Response to Follow-up Audit Report on NYC Health + Hospitals Oversight of Nurse Hiring and Retention (2019-F-45)

Dear Mr. Shulman,

Thank you for the opportunity to respond to the above referenced follow-up report.

I was pleased to read the report stated that two of the four recommendations were fully implemented and two were partially implemented. We believe that we have made significant progress in addressing the recommendations from the initial audit report, issued July 16, 2018.

Enclosed please find the NYC Health + Hospitals response to the two partially implemented recommendations.

If you have any questions regarding our response, please contact Christopher Telano, Chief Internal Auditor/Sr. AVP at 646-458-5623.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell Katz".

Mitchell Katz, MD



NYC Health + Hospitals  
Response to NYS Office of the State Comptroller  
Oversight of Nurse Hiring and Retention Report 2019-F-45

**Recommendation 1:** *Ensure all temporary and direct hire nurses are electronically fingerprinted so they can be properly monitored for potential criminal activity.*

NYS Audit Status - Partially Implemented

NYC H+H Response for Direct Hire Nurses:

Although the NYS Oversight of Nurse Hiring and Retention Report 2019-F-45, dated January 3, 2020 states that NYC Health + Hospitals has not taken any action to ensure that direct hire nurses who began before 2002 are fingerprinted, we had already indicated in our April 27, 2018 response to the initial audit that NYC H+H Legal Counsel's policy decision was made to not digitally fingerprint existing staff, since any information regarding the criminal history of existing staff is unlikely to be of operational or legal use due to the passage of time and other factors, including the restriction in place under Article 23-A of NYS Corrections Law and NYC Fair Change Act. Furthermore, per NYC Health + Hospitals Personal Rules & Regulations, Rule 4.4.4, an employee cannot be terminated due to their qualifications and background more than three years after appointment for facts, which if known prior to appointment would have warranted a disqualification, except in the case of fraud.

As such, since fingerprinting of nursing staff is not a State requirement, the System would not be able to fingerprint existing nursing staff hired prior to 2002, when fingerprinting was not a term and condition of employment without collectively bargaining the implementation of this requirement with the applicable unions. The only time we can add a term and condition of employment is if the requirement is a result of a change in law. Therefore, we cannot unilaterally mandate fingerprinting of staff hired prior to 2002. However, fingerprinting was implemented as a best practice, not a legal mandate in January 2002.

Consequently, we are compliant with our System fingerprinting policy and continue to ensure that all new direct hire nurses, Licensed Professional Nurses (LPNs) and nurse managers are digitally fingerprinted, as described in the System response dated April 27, 2018 and continues to receive arrest notifications for all direct hire nursing staff and nurse managers fingerprinted since May 2004.

NYC H+H Response for Temporary Agency Nurses:

In response to the 2017 audit, fingerprint requirements for agency nurses was implemented on February 1, 2018 to require fingerprints (Certificate of Conduct) through the NYC Police Department. The requirements were subsequently updated, effective January 1, 2019, to require all agencies to digitally fingerprint all agency nurses prior to their assignment with the System. In addition, as stated in our October 16, 2018 Status Report response, NYC Health + Hospitals implemented a process for the ongoing System HR review and approval of agency nursing staff with criminal records.

In order to ensure agency compliance and documentation of the fingerprint requirements, the Office of Patient Centered Care (OPCC) will revise Exhibit G and the Authorization for Release of Criminal History forms to include the agency representative signature, as well as the following statement:

*This document will confirm that the FBI Fingerprinting Compliance Process, as required by NYC Health + Hospitals, has been completed for (agency resource name) and is consistent with the provisions of Article 23-A and the NYC Fair Chance Act.*

*Do not include any language or document which identified any results from the fingerprinting compliance process. Attach a copy of the receipt for fingerprint request.*

**Recommendation 2:** *Require facilities to complete and maintain documentation supporting that all background check requirements for nurses are met prior to their hiring.*

**NYS Audit Status** - Implemented

**No comments from NYC Health + Hospitals**

**Recommendation 3:** *Ensure facilities maintain complete, readily available files for temporary nurses, and document evidence that staffing agencies' background investigations have been reviewed by Health and Hospitals officials.*

**NYS Audit Status** - Partially Implemented

**NYC H+H Response:**

OPCC will revise Exhibit G to include Form 1-9 Attestation or E-Verify Acknowledgement as part of their onboarding process. Vizient, or the current System vendor for agency staff, will continue to maintain electronic documents for all staff assigned to a NYC Health + Hospitals facility.

Furthermore, effective September 2020, OPCC will expand the centralized agency nursing program to include Post-Acute Care, Community Care, Gotham Health and Correctional Health Services nursing administration to ensure that one standard workflow is being followed System-wide. As part of the standard workflow, Exhibit G and the associated background documentation will be reviewed and signed off by OPCC staff or a designee.

**Recommendation 4:** *Require facilities to complete and maintain evidence of annual performance evaluations of direct hire and temporary nurse assigned for more than one year*

**NYS Audit Status** - Implemented

**No comments from NYC Health + Hospitals**