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March 11, 2026

Katherine Ceroalo
DOH, Bureau of Program Counsel
Regulatory Affairs Unit, Room 2438
ESP Tower Building
Albany, NY 12237

Re: Personal Care Services and Consumer Directed Personal Care Services - HLT-04-26-00005-P

Via Email: regsqna@health.ny.gov

Dear Ms. Ceroalo:

The American Nurses Association - New York (ANA-NY) is submitting this comment letter on proposed regulation HLT-04-26-00005-P, relating to personal care services and consumer directed personal care services to register our opposition to the proposed regulation. ANA-NY is a professional nursing organization representing the interests of New York State's 272,000 registered nurses. ANA-NY advances the nursing profession by fostering high standards of nursing care, supporting the professional and educational advancement of nurses, and promoting the welfare of nurses so that all people may have better health care.

ANA-NY believes that HLT-04-26-00005-P ignores New York law relating to registered nurses' and licensed practical nurses' scopes of practice. The Nurse Practice Act (New York Education Law Article 139) defines the rights and responsibilities of registered nurses and licensed practical nurses. New York Education Law sections 6908 and 6909 grant only registered nurses the authority to perform independent assessments of individuals being served by home health care aides. While referenced in both 6908 and 6909, this is explicitly outlined in N.Y. Educ. Law § 6908 (2)(b)(iii). This provision is clear in that it only applies to registered nurses and not licensed practical nurses.

As currently drafted, this proposed regulation would circumvent the statutory authority contained in Education Law §§ 6908 and 6909. As written, it would grant licensed practical nurses the ability to perform an independent assessment. Therefore, we must oppose this proposed regulation unless and until there is a statutory change to the Education Law that would grant licensed practical nurses the ability to perform independent assessments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jeanine Santelli".

Jeanine Santelli, Ph.D., RN, AGPCNP-BC, FAAN
Executive Director, ANA-NY