

Testimony of
Ms. Patricia Greenberg

October 6, 2004

Testimony of Patricia Greenberg, RN, on behalf of the Service Employees International Union, AFL-CIO, on Bioshield II and related Senate Bill 666, the Biological, Chemical, and Radiological Weapons Countermeasures Act, before the U.S. Senate HELP and Judiciary Committees, October 6, 2004

Good morning Committee Chairmen Gregg and Hatch, Ranking Members Kennedy and Leahy, and other Members of the Senate HELP and Judiciary Committees.

My name is Patricia Greenberg. I have been a registered nurse for 23 years. I have worked as an operating room and intensive care nurse in Syracuse, New York, and I am the Executive Director of the 27,000 member New York State Nurse Alliance SEIU 1199.

On behalf of Service Employees International Union, thank you for this opportunity to testify. I also thank the sponsors of Senate Bill 666, for honoring Kathy Nguyen by mentioning her name on page 2 of the proposed legislation. Kathy was a member from my local union who died from her exposure to anthrax contained in a contaminated letter.

SEIU is the nation's largest organization representing health care workers, with over half of our 1.7 million members comprised of nurses, doctors, EMTs, laboratory technicians, orderlies, dietary workers, laundry workers, environmental services workers, and other occupations within the health care sector. Many of these employees work in occupations that would likely be defined as "first responders" in the event of a terrorist attack.

As nurses, we want to do everything in our power to respond to, treat and care for any patient who may be a victim of a terrorist event.

This is why we have reviewed Senate Bill 666 with great interest. We are supportive of the broad principles of the legislation to encourage the development of new countermeasures to protect all of us from such threats.

In particular we have noticed how Senate Bill 666 is quite comprehensive in protecting the drug and other biotech companies who produce countermeasures from liability.

In sharp contrast, we are alarmed that there is no mention of providing protections either from injury or from liability for the courageous volunteers working on the front lines to protect our national security, if they suffer as a direct result of the implementation of any of these countermeasures.

Frankly, we have been down this road before. The Homeland Security legislation that passed in 2002 provided blanket liability protections for smallpox vaccine manufacturers and everyone

involved in administering this vaccine, with no protections afforded to frontline workers, their patients or the public. We fear that the legislation before us today mimics many of the same serious flaws that were contained within the Bush Administration's failed smallpox vaccination program.

This bill is even more troubling when you recognize that it is premised on the expectation that there won't be time to do full safety testing on these countermeasures. As a result, we fear that once again nurses and other first responders will be hesitant to roll up their sleeves when they learn of this bill's deficiencies.

If we are protecting the manufacturers that create the countermeasures and the health facilities that implement these countermeasures from liability, we need to be sure that the first responders who will be receiving and administering the countermeasures to others are also protected in the event of adverse reactions.

We know that the best countermeasures in the world will not be effective if health care workers and their patients do not have confidence in the safety of the countermeasures, and if those injured can expect no more than a "Get Well" card from their elected leaders.

You may recall the televised announcement by President Bush in December 2002 to initially vaccinate 500,000 health care workers against smallpox within thirty days, followed by 10 million more public safety workers within six months.

What you may not have been aware of was a public meeting convened by the CDC more than six months earlier. At that meeting, a number of organizations identified a wide range of serious gaps in patient and worker protection in the program that we all hoped that CDC would address beforehand so that the program would succeed. Unfortunately, Dr. Gerberding stated at a press conference after our meeting that the Administration did not have time to address these concerns.

The result today is that less than one half of one percent of the original goal of ten million workers have been vaccinated. We hope that Senate Bill 666 can do better and not repeat the failures of the smallpox vaccine program that led the Washington Post to describe the effort in an editorial a year ago this past July as a "fiasco."

In our judgment, it is only fair that nurses, health care workers, and other first responders, who are putting their lives on line to protect our national security have the necessary safeguards in place to care for themselves, their patients, and the public at large.

We continue to be dismayed by the lack of overall preparedness in many health care facilities as they confront potential threats.

To better prepare ourselves, over a year ago my union launched a program in collaboration with leading medical centers, and we have already trained thousands of emergency room staff, EMTs and other first responders to confront the wide range of emerging health threats from SARS and avian flu, to terrorists' agents.

We know that HRSA has already distributed well in excess of \$1 billion dollars to hospitals for preparedness, yet there has been no criteria issued by HRSA, OSHA or DHS on how the monies should be spent. The result in many instances has been the purchase of much equipment of dubious value hidden away in closets, without adequate staff training and hands-on experience.

If we are serious about protecting our healthcare workers and first responders, handing out billions of federal dollars with no requirements from HRSA, OSHA or DHS on what employers need to be doing is a recipe for massive misspending.

In one of the more egregious examples of the contradictory nature of what is happening regarding overall terrorism preparedness, this past December federal OSHA killed their final tuberculosis standard; the one standard that would have served as a proxy to protect health care workers from other airborne threats, including airborne weapons of mass destruction. This was followed by actions last month by the US House that added an appropriations rider to prevent OSHA from enforcing a life-saving provision of the agency's respiratory standard requiring employers to conduct annual tests to prevent respirators from leaking.

We sincerely hope that the Senate can do better for first responders with the legislation now before you, and therefore respectfully offer the following suggestions for improvement in this important piece of legislation:

We believe that a comprehensive terrorism countermeasures prevention program that protects health care workers, patients, and their families in advance of a terrorist event would:

? Include a requirement that health care workers and other first responders be fully educated about the benefits and risks of any countermeasure before implementation;

? Ensure that workers have the freedom to decline newly produced vaccines or other countermeasures that have not been sufficiently tested without being discriminated against at work. This language could be modeled after similar protections afforded workers under the OSHA Bloodborne Pathogens Standard;

? Provide free and confidential medical screening for anyone volunteering in any vaccine or drug trial involving countermeasures to assure those with preexisting medical conditions are not exposed;

? During the piloting and implementation of countermeasures, inform patients of the risks and benefits, and the safeguards that have been put into place to protect them;

? Require the monitoring of volunteers who receive any countermeasures so that any adverse effects can be adequately tracked by the federal government so that potential risks can be fully evaluated;

? Ensure that any health care worker or other first responder who volunteers and gets sick due to participating in any countermeasures does not face loss of income if they can not work as a result;

? Provide free medical care to those who volunteer and are injured or made sick by any countermeasures;

? Require that health care workers and other first responders be provided with an explanation of any new job duties resulting from the implementation of the countermeasure(s); and

? Contrary to how the smallpox vaccine was administered, require that any new vaccines or other medications that utilize needles or other sharp instruments, be administered with needles with integrated safety features as required under the federal Needlestick Safety and Prevention Act of 2000.

Thank you, and I would be glad to respond to any questions.