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Assemblymember 74<sup>th</sup> District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

**Testimony to the Department of Labor on Sleep and Meal Time Regulations  
Office of Assemblymember Harvey Epstein  
July 11, 2018**

My name is Harvey Epstein and I am the Assemblymember representing New York's 74<sup>th</sup> Assembly District, which includes the neighborhoods of the Lower East Side, East Village, Stuyvesant Town/Peter Cooper Village, Murray Hill, Tudor City and the United Nations. Thank you for the opportunity to testify regarding the decision to make permanent the Department of Labor's Emergency Regulations issued last October concerning 24-hour home care attendants.

Preserving the Emergency Regulations has very serious implications for people who live and work in my district as well as across the city and state. The proposed regulations fly in the faces of multiple New York State appellate court judges who have agreed that home care aides should be afforded the dignity and fair compensation that all workers deserve. They, like many of us here today, understand that being paid for a 13 hour shift when you worked 24 hours is not a fair day's wage for a fair day's work—it's exploitation. Codifying these regulations sends a clear message to home care aides—the majority of whom are women, immigrants, and people of color—"you don't matter." Home care aides take on the enormous and virtuous responsibility of caring for patients with medical conditions that demand around the clock attention. When you are attending to a homebound, elderly, or disabled patient, the simple fact is that you are always on-call—a patient's medical condition does not care whether or not you're entitled to 5 hours of uninterrupted sleep or meal breaks.

In New York City alone, the population of New Yorkers over the age of 65 is projected to rise to 1.4 million by 2040. These are the future clients of the already short staffed home care industry. There is no question that the demanding conditions and inadequate wages are contributing to the shortage of home care aides. How will employers attract the type of high quality applicants needed to fill these roles if they're only willing to pay workers for 50 percent of their time? Some unscrupulous employers, in an attempt avoid paying for night-time hours, have counseled employees to ignore their patients' call after 9. This indefensible practice bred by the perversity of these rules is an insult to both patients and workers.

We cannot continue to impose these backwards regulations on home care aides. Acting to preserve the Emergency Regulations is a failure to workers, patients and their families. We must seek alternatives that are fairer to workers and patients. For patients requiring 24-hour care, we should facilitate their ability to acquire split-shift care and provide increased funding to Medicaid to ensure that our state's most vulnerable are able to live comfortably and with dignity.