



# 2020-21 Joint Legislative Hearing on Workforce Testimony

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Submitted by:

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Wednesday, February 5, 2020

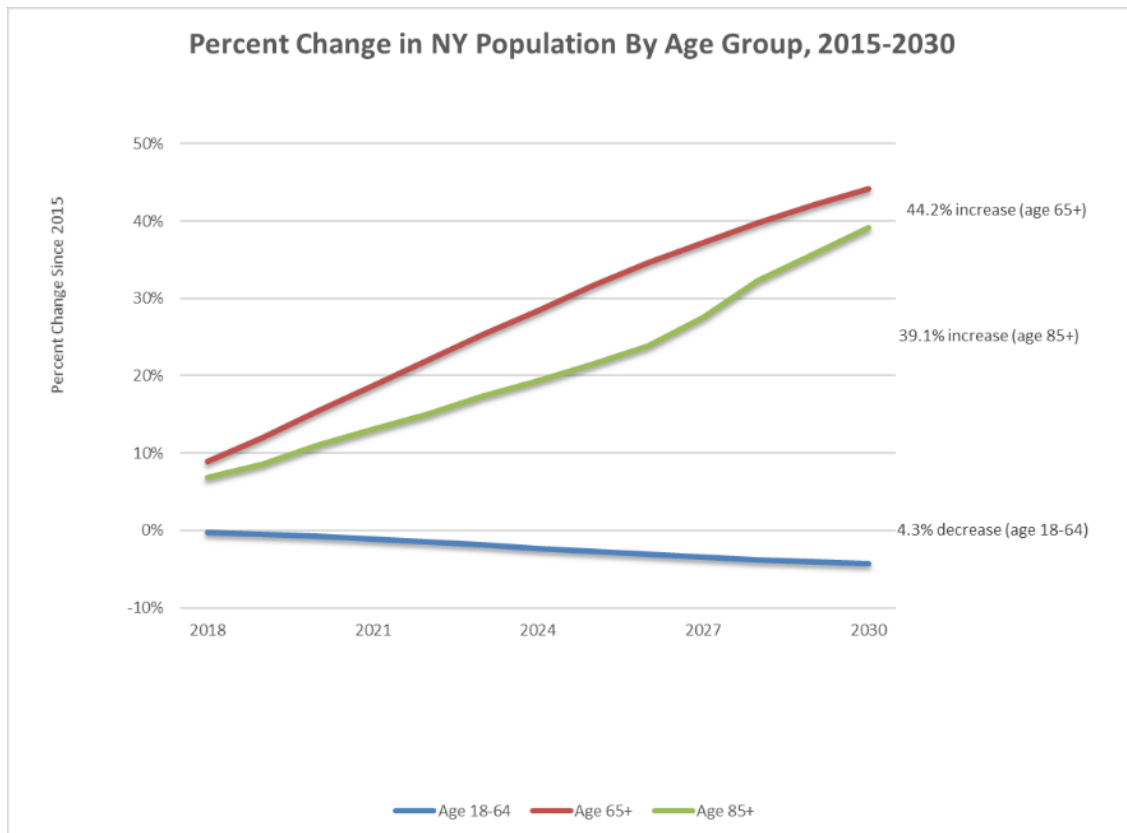
**INTRODUCTION**

On behalf of the membership of LeadingAge New York, thank you for the opportunity to testify on the aspects of the SFY 2020-21 Executive Budget impacting long-term care providers and older adults. LeadingAge New York represents over 400 not-for-profit and public providers of long-term care (LTC) and post-acute care, aging services, and senior housing, as well as provider-sponsored Managed Long Term Care (MLTC) plans. This testimony addresses the urgent need for the State Budget to address LTC workforce needs in the context of demographic change and an aging population.

***Who Will Take Care of Our Parents and Grandparents? Who Will Take Care of Us?***

New York is approaching a demographic crisis. Approximately 3 million adults age 65 and older, representing 16 percent of the population, make New York their home. The oldest members of the Baby Boom generation are now in their 70s; in six years they will hit their 80s, and their long-term care needs will escalate. *Between 2015 and 2040, the number of adults age 65 and over will increase by 50 percent, and the number of adults over 85 will double.*<sup>1</sup> In another alarming trend, at the same time the percentage of our population over age 65 is growing, the percentage between 18 and 64 is shrinking. The number of people available to care for an expanding older adult population is declining.

Figure 1



<sup>1</sup> Cornell University Program on Applied Demographics New York State Population Projections; <http://pad.human.cornell.edu/>; accessed Jan. 4, 2019.

We are already feeling the effects of a shortage of working age caregivers for our parents, grandparents and neighbors. Today, there are only approximately 4 working age adults for every adult over age 65 in New York and 29 working-age adults for every adult over age 85. By 2040, there will be approximately **3** working-age adults for every adult over age 65 and **15** for every adult over age 85.<sup>2</sup> As described in more detail below, both informal caregivers and direct care workers in the formal care delivery system are already in short supply, and the gap will only grow. Our members are experiencing unprecedented and extraordinary challenges throughout the State filling open positions in all levels of care.

Health care job growth in New York State exceeds job growth in every other sector. And most of those new jobs are in long-term care. Of the 150,000 health care job openings anticipated annually, **89,000 (60%) are for personal care aides, home health aides, and nursing assistants.**<sup>3</sup> Unfortunately, the supply of workers is not keeping up with demand. LTC providers are not able to fill those openings

According to the Center for Health Workforce Studies, 59 percent of home care agencies report difficulty hiring full-time workers. Similarly, 69 percent of nursing homes report difficulty hiring workers for evening, night, and weekend shifts.<sup>4</sup> These shortages extend to nurses as well. Job openings for registered nurses and licensed practical nurses exceed graduation rates by over 4,600 annually (see Figure 3).<sup>5</sup> Home care agencies have difficulty both with recruitment and retention. Turnover rates statewide average around 25 percent, but can be as high as 80 percent for RNs, and average 29 percent for home health aides.

Figure 2

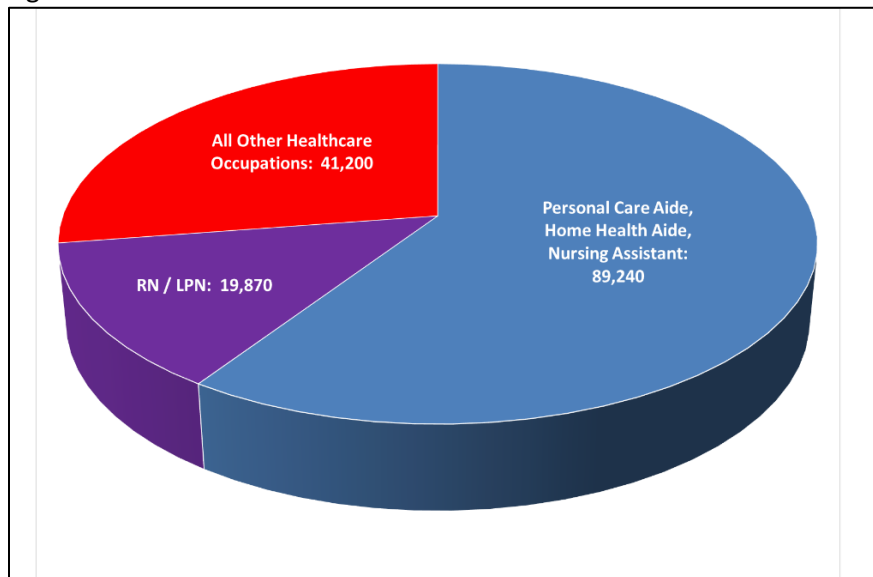


Figure 3<sup>6</sup>

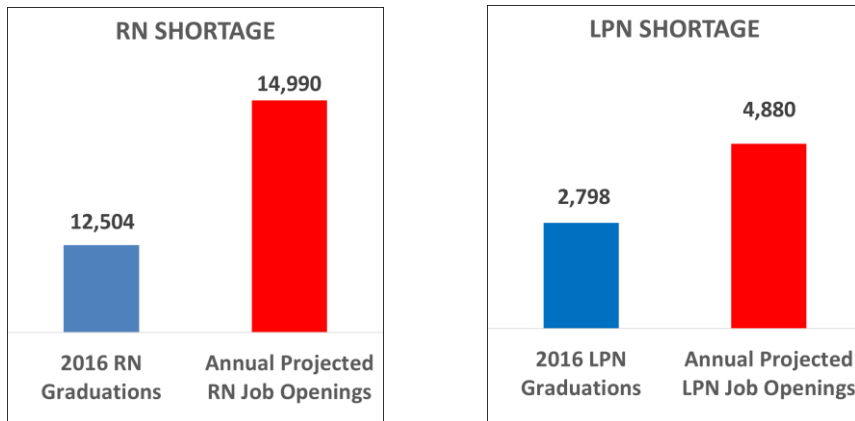
<sup>2</sup> *Ibid.*

<sup>3</sup> New York State Department of Labor Employment Projections; <https://www.labor.ny.gov/stats/lspoj.shtm>; accessed Jan. 11, 2019.

<sup>4</sup> Martiniano R, Krohmal R, Boyd L, Liu Y, Harun N, Harasta E, Wang S, Moore J. *The Health Care Workforce in New York: Trends in the Supply of and Demand for Health Workers*. Rensselaer, NY: Center for Health Workforce Studies, School of Public Health, SUNY Albany; March 2018.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*



LTC providers cannot compete for employees with hospitals that are able to offer higher wages, nor can they compete with fast food or retail employers that are able to offer lower stress jobs without specialized training at similar wages. LTC providers cannot offer higher wages because they rely heavily on Medicaid and Medicare reimbursement. Medicaid covers nearly three-quarters of nursing home days and 87 percent of home care services in New York State. Medicare covers much of the remainder. Thus, they do not have the ability to cost shift to private payers when government rates are cut or when the government imposes new and costly requirements without fully funding them. Moreover, LTC direct care jobs are extremely demanding – physically and emotionally -- requiring extensive training, intensive documentation and stringent accountability. Many potential employees would opt for a fast-food job, if offered a similar wage by a LTC provider.

Increases in the minimum wage (which LeadingAge New York supported) have only exacerbated workforce challenges. Before the minimum wage increase, our members were able to compete with retail and fast food employers by offering wages higher than the minimum. When the State raised the minimum wage, providers that were already paying above the mandated minimum were unable to qualify for new minimum wage funding. Thus, they could not afford to raise wages to maintain a higher rate than their competitors in fast food and retail, and their ability to attract workers into their field was diminished.

Even those that qualified for the minimum wage funding were not fully reimbursed for the additional expense. The funds appropriated do not cover services reimbursed by Medicare, nor do they address the compression effect on more senior and higher-level workers earning slightly above the minimum wage or the cost of non-statutory benefits that are tied to wages. This has further strained the finances of LTC providers and impeded recruitment and retention of workers in the compression class.

The inability to hire aides and professionals is creating access barriers to long-term care services and driving up LTC costs. It has resulted in long waiting lists for certain community-based services and inability to fill authorized home care hours due to lack of aides and nurses. In addition, home care agencies must turn away patients due to a lack of available registered nurses to assess and admit patients and supervise aides. Workforce shortages are also driving individuals to seek admission to higher levels of care due to lack of access to community-based services. They are limiting the ability of nursing homes to admit residents with complex medical conditions and/or high supervision needs. And, shortages are forcing LTC providers rely on overtime and staffing agencies at a higher cost to consumers and government payers.

These shortages create ripple effects throughout the health care delivery system and the economy. Lack of access to long-term or post-acute care affects not only the older adult waiting to be discharged from the hospital or nursing home and his or her family. Without adequate access to nursing home services or home care, hospital beds remain occupied by individuals waiting for discharge and are unavailable to those who require admission. Individuals who are living in the community without needed home care may experience avoidable exacerbations of chronic conditions, functional decline, falls, and ultimately nursing home admissions. Family caregiver stress increases and their productivity at work diminishes. These outcomes add to the State's Medicaid spending and place a strain on the health system and our communities.

The effects of workforce shortages and the inability to offer competitive compensation are compounded by State laws and regulations that prevent health care providers from optimizing the skills and training of available professionals and paraprofessionals. Specifically, nurses working in assisted living facilities (with the exception of Enhanced Assisted Living Residences) are prohibited from practicing nursing, due to the State's prohibition on the corporate practice of a profession.<sup>7</sup> State regulations also prevent nurse practitioners and physician assistants working in nursing homes from performing certain clinical activities within the scope of their licenses. As a result, these tasks must be performed by physicians at a higher cost.

Faced with current and future demographic challenges, New York must take action now and invest in the workforce and long-term services, supports, and technologies that enable individuals to remain in their homes and communities; ensure the availability of high quality nursing facility staff for those who cannot be served in their homes; and modernize regulations to permit providers to address consumer preferences, optimize efficiencies, improve quality, and effectively deploy an increasingly scarce workforce.

### ***What Are We Doing to Prepare for Demographic Change?***

The Executive Budget should be commended for its historic \$33 billion investment to address climate change. Unfortunately, the State has not pursued a similarly coherent and proactive policy to address demographic change -- the approaching "Silver Tsunami." Notwithstanding the demographic wave that is already driving up demand for long-term care services and limiting the supply of workers, for the past several years, the State has focused its health care investments on the acute care and primary care sectors and its budget cuts on the long-term/post-acute care sector. New York State needs to change course and implement a proactive plan to address demographic change.

Despite the demographic imperative and existing shortages, the only significant long-term care workforce initiative implemented in recent years – the managed long-term care workforce component of the State's 1115 Medicaid waiver – has focused on enhancing the training of the existing workforce. While this is clearly an important goal, the funding does not adequately address the need to bring new workers into the field. This funding ends on March 31, 2020. The Department of Health has applied for a second round of funding, seeking \$1 billion from the federal government for workforce. However, we are concerned that this funding will not be approved by the federal Centers for Medicare and Medicaid

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<sup>7</sup> The limitations on nurses in these settings prohibit not only nursing tasks, but also tasks that home health aides are routinely trained to perform in the community.

Services. If it is approved, we are concerned that it will not be targeted efficiently and effectively at the issues that impede recruitment and retention of workers in the long-term care field.

***What Should We Be Doing to Address the Needs of a Rising Number of Older Adults in the Context of a Shrinking Workforce and Limited Government Funding?***

To address demographic change in New York State, we must build the long-term care workforce and identify ways to use a shrinking pool of workers more efficiently and effectively. If New York is to ensure access to high-quality care for a growing number of older adults in our communities, we need to infuse resources into the long-term care system and develop care models and worker titles that enable efficient deployment of a limited supply of workers. Accordingly, LeadingAge New York proposes a multi-pronged strategy, **#WIN4Seniors** to bring new workers into long-term care and implement reforms that enable optimal use of a limited workforce.

We welcome the Executive Budget's investment of \$175 million in workforce development generally and its continuation of funding for minimum wage increases. We are concerned that the \$175 million in workforce development funding will not be allocated to long-term care training, education, and recruitment activities. The focus of the program appears to be on science and technology and advanced manufacturing jobs, rather than caregiving jobs. In order to ensure sufficient caregivers as the Baby Boomers age, we must engage in a proactive and focused effort to build the long-term care workforce.

***#WIN4Seniors***

LeadingAge New York has developed a multi-faceted workforce plan that includes both investments and no-cost regulatory and statutory reforms to reduce barriers to the recruitment, retention, and efficient deployment of LTC staff. The plan is described in detail in our **#WIN4Seniors** brief. **#Win4Seniors** addresses the barriers to building the LTC workforce through three strategies: (i) Dedicating existing funding to expand access to aide training and nursing programs and to enhance wages; (ii) Reducing regulatory barriers to operating training programs and obtaining and retaining certifications; (iii) Optimizing the use of existing workers and improving retention through the development of career ladders and advanced aide titles and policies enabling professionals to practice at the top of their scope.

**1. Dedicate at least \$50 million of workforce development funding and fully allocate nursing home Civil Money Penalties funds to support initiatives to train, recruit, and retain LTC nurses and aides**

At least \$50 million of the Workforce Development Initiative should be dedicated to LTC workforce – the fastest growing employment sector in New York State and an area of critical need to a growing segment of New York's population. Funds should be available to address both financial and social barriers to completion of training and employment in LTC, including:

- *Enhanced wages and benefits*
- *Access to transportation*
- *Job-related social supports for trainees and workers*
- *Tuition support for adult learning/certification and nursing programs at community colleges and BOCES and enhanced financial aid for nursing degree programs*
- *Supports and stipends for students in aide and nursing programs*
- *High school pre-apprenticeship programs*

- *Apprenticeship programs*
- *Peer mentoring*

In addition, approximately \$8 million derived from nursing home civil money penalty (CMP) collections are maintained in a Department of Health account, but are not being spent. Federal CMP regulations require States to reinvest monetary penalties that are collected from nursing homes.<sup>8</sup> NYS should comply with federal regulations and reinvest the funds collected in nursing home workforce and quality projects. Specifically, the State should follow the example of Wisconsin and create a New York Careers in Aging Program using CMP funds to support workforce recruitment and retention. The full amount of funds in the account should be appropriated to offer scholarships for certified nurse aides (CNA) trainees, provide work-related supports to trainees and aides, provide a bonus to CNAs after 6 months of employment, and support a public relations campaign to encourage CNA training as a career ladder to nursing.

**2. Reduce regulatory barriers to operating training programs; obtaining and retaining CNA, Home Health Aide (HHA), and Personal Care Aide (PCA) certifications; and recruiting workers**

The requirements and curricula of various aide training programs are often duplicative, but regulations make it difficult for aides to obtain and maintain certifications in multiple disciplines. Moreover, duplicative in-service training requirements for home care aides reduce the amount of time they can spend with patients and impede their ability to maintain certifications. Further, State requirements for certain aide training programs vary based on whether they are overseen by the State Education Department or the Department of Health. State regulations also exceed federal requirements in certain respects. All of these regulatory complexities unnecessarily complicate the process of delivering training, obtaining certifications and maintaining them. The following steps should be taken to streamline requirements:

- *Enable aides to obtain and retain multiple certifications by aligning credentialing with experience and competencies and eliminating duplicative training requirements for CNAs, HHAs, PCAs.*
- *Clarify that CNAs who work in nursing homes, like CNAs in hospitals, are eligible to complete a competency evaluation to be certified as HHAs, in lieu of the standard training.*
- *Align HHA training program requirements with federal requirements by allowing LPNs to conduct training under general supervision of RN.*
- *Reduce duplicative home care aide in-service training requirements by including completion of in-service training hours on the aide registry.*
- *Align state requirements with federal regulations for nursing home feeding assistants training.*

In addition, the State should fully fund the Criminal History Record Check (CHRC) process to cover rising costs, expand CHRC access points and expedite the clearance process. Most LTC workers must be cleared through the CHRC process administered by the Department of Health. In recent years, new provider types have been added to the process, and access points for finger printing have been reduced, especially in rural areas. This has led to significant delays in processing, resulting in prospective employees finding jobs in other sectors.

**3. Optimize the use of existing workers and improve retention through the development of career ladders and advanced aide titles and of policies enabling professionals to practice at the top of their scopes**

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<sup>8</sup> 42 CFR §488.433.

Given population trends and the limited availability of aides, nurses and physicians in the LTC field, we must allow professionals and paraprofessionals to practice at the top of their scopes and allow available professionals to fulfill appropriate clinical duties. In addition, we must find ways to make LTC jobs more attractive to workers through more effective career ladders. The following actions would enable a more efficient use of our professional workforce and expand the career ladder available to aides:

- *Expand the use of patient care technicians in nursing homes and authorize the use of medication technicians.*
- *Authorize nurses to practice nursing in assisted living facilities and authorize them to provide influenza and pneumococcal immunizations to residents and staff.*
- *Clarify that NPs and PAs are permitted to conduct the initial health history and physical and to sign nursing home admission orders for new nursing home residents initiating Medicaid stays.*
- *Permit NPs and PAs to conduct medical evaluations for assisted living program (ALP) residents.*
- *Allow the nursing home medical directors to issue orders for continued services in their affiliated adult day health care program, in lieu of a community physician.*

### **CONCLUSION**

LeadingAge New York's not-for-profit members are committed to providing high-quality care to their patients and residents. They are also committed to direct care workers, who are the unsung heroes in their organizations. They are struggling to meet growing demand for services and intensifying needs among the people they serve, in the context of a shrinking workforce and shrinking government support. As this testimony illustrates, New York must act now to prepare for demographic change. It must implement #WIN4Seniors to build the long-term care workforce so that high-quality LTC services are available as the Baby Boom generation ages.

*Founded in 1961, LeadingAge New York is the only statewide organization representing the entire continuum of not-for-profit, mission-driven, and public continuing care including home and community-based services, adult day health care, nursing homes, senior housing, continuing care retirement communities, adult care facilities, assisted living programs, and Managed Long Term Care plans. LeadingAge New York's 400-plus members serve an estimated 500,000 New Yorkers of all ages annually.*