



New York State Joint Legislative Budget Hearing on Health

Tuesday, February 28, 2023

Testimony of Amy Robins, Director of Advocacy, PHI

Thank you for the opportunity to comment on the Fiscal Year 2024 Executive Budget for New York State. PHI is a New York-based national non-profit organization that works to transform eldercare and disability services by promoting quality direct care jobs as the foundation for quality care. For more than three decades, PHI has been the nation's leading expert on the direct care workforce through our research, policy analysis, and direct consultation with policymakers, payers, providers, and workers—developing a unique 360-degree perspective on the long-term care system and its workforce in our state and across the United States.

In New York State, more than 564,000 direct care workers—including nursing assistants, home health aides, and personal care aides—provide care to older adults and people with disabilities in nursing homes, residential care communities, and private homes across the state.¹ These workers assist individuals with daily personal care, help them maintain their optimal health and wellbeing, and support their social engagement. Because they spend more time with clients/residents than any other provider, they also offer vital information and insight to inform care planning and delivery.² The critical contribution of this workforce has never been more evident than during the past three years, as direct care workers have struggled to provide ongoing care during the prolonged COVID-19 crisis. Immediate action is needed to support the current direct care workforce and to recruit new job candidates to this sector—which, according to PHI research, will have over 1 million new job openings between 2020 and 2030 to meet growing demand, far outpacing job growth in any other occupation in the state.³

In this testimony, we provide comments and recommendations primarily regarding the Executive Budget Health and Mental Hygiene Article VII legislation that impacts this essential workforce. Despite important investments in the Master Plan for Aging, support for universal direct care worker training, the implementation of wage increases for home care workers, rate increases for residential care facilities, and quality reporting and accreditation for assisted living facilities, much more must be done for New York to address the worsening long-term care crisis created by the growing shortage of direct care workers. As the budget stands, home care will not receive a rate increase, an oversight that will further destabilize the long-term care infrastructure and have significant impact on consumers and workers. We call on the legislature to increase the Medicaid rate for all home and community based (HCBS) providers and to support the allocation of additional resources to achieve a living wage for direct care workers, invest in our state's long-term services and support infrastructure (including through advanced roles that

¹ PHI. "Workforce Data Center." Last modified September 22, 2022. <https://phinational.org/policy-research/workforce-data-center/>.

² PHI. 2022. *Direct Care Workers in the United States: Key Facts*. Bronx, NY: PHI. <http://phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-2/>.

³ PHI. "Workforce Data Center." Last modified September 22, 2022. <https://phinational.org/policy-research/workforce-data-center/>.

create a career ladder for direct care workers and universal worker training that allows direct care workers to transition between different care settings and client populations), and improve data collection to identify and remedy barriers facing this workforce.

We begin with our primary, and most urgent, recommendation: for additional funding in New York's Fiscal Year 2024 state budget to increase the wages of direct care workers, which is critical to the goals of the programs contained within this legislative package.

Primary Recommendation: Raise Wages for Direct Care Workers

The median hourly wage for direct care workers in New York State is \$15.14,⁴ while the median wage for other occupations in the state with similar entry-level requirements is over \$4.00 more.⁵ As a result of low wages and limited annual earnings, direct care workers experience tremendous economic instability: 40 percent of direct care workers in New York live in or near poverty and 50 percent rely on public assistance to survive.⁶ Low wages also contribute to costly and damaging turnover in this workforce, as direct care workers leave the long-term care field for higher-paying or more stable opportunities.

New York has made important progress towards addressing the critical shortage of direct care workers: namely, the multi-year investment initiated in 2022 that will eventually increase the home care worker minimum wage by \$3 an hour and this Executive Budget's proposal to tie minimum wages to inflation (Part S in the Education, Labor, and Family Assistance Article VII legislation). But significantly more needs to be done to fund direct care worker positions at livable and competitive wages, and secure a workforce that can meet the care needs of New Yorkers. **Therefore, PHI calls on the New York State legislature to enact and fully fund *Fair Pay for Home Care*.**⁷ This legislation will ensure that home care workers, who constitute the largest but lowest-paid segment of the direct care workforce, receive an hourly wage of 150 percent of the regional minimum wage—enhancing the viability and competitiveness of these jobs.

Further, PHI urges the legislature to direct the Department of Health to incorporate a living and competitive base wage, indexed to inflation, for all direct care workers into Medicaid rates across long-term care settings. This base wage should be established with stakeholder input and integrated into Medicaid rates through a transparent rate-setting process.

⁴ Ibid.

⁵ U.S. Bureau of Labor Statistics (BLS), Division of Occupational Employment and Wage Statistics (OEWS). 2022. May 2011 to May 2021 State Occupational Employment and Wage Estimates. <https://www.bls.gov/oes/home.htm>; O*NET. 2022. O*NET 27.0 Database; analysis by PHI, September 2022.

⁶ Cook, Allison. *New York State's Direct Care Workforce*. Bronx, NY: PHI. <https://www.phinational.org/resource/new-york-states-direct-care-workforce/>.

⁷ "NY State Senate Bill S3189." New York State Senate. Accessed February 9, 2023. <https://www.nysenate.gov/legislation/bills/2023/s3189>.

The Department of Health should also establish a base rate that managed long-term care (MLTC) plans must pay providers that covers all labor costs, including wages, key employment benefits, training, supervision, and other costs. The Department of Health must then ensure that providers pass along the livable and competitive base wage to workers.

The New York State legislature must invest in higher wages for direct care workers for three key reasons. First, improving direct care job quality will lessen the workforce shortage and ensure that older New Yorkers and individuals with disabilities can access the long-term services and supports they need. Second, investing in this workforce—including by raising wages, which will increase tax revenue and decrease spending on public benefit programs—will support the state’s economy given that the direct care workforce is the fastest growing occupation in New York.⁸ Finally, since women, people of color, and immigrants constitute the majority of this workforce, raising direct care wages will enhance equity in our state, which is a central tenet of the state’s Medicaid program.

Continue Supporting Career Flexibility for Direct Care Workers

We applaud the proposed Executive Budget’s reappropriation of \$39 million annually to facilitate the creation of a universal model for training long-term care workers across caregiving roles (see the Aid to Localities bill, New York State Urban Development Corporation, p. 942). This investment provides an opportunity for New York to join the states leading this work by creating training innovations that will benefit both workers and the long-term care system. We support competency-based training for all direct care workers that includes stackable credentials that can be moved across different job titles in conjunction with contextualized training for different settings and populations within job categories. When fully implemented, this training would facilitate worker movement across settings and populations, helping to address workforce shortages, improve worker employment options, and reduce training and credentialing barriers. **PHI asks the legislature to continue this investment in a mobile, responsive workforce by reappropriating annual funding for training direct care workers.**

Recommendations on Key FY24 Executive Budget Provisions

The rest of this testimony offers comments on the Executive Budget proposals within the Health and Mental Hygiene Article VII legislation that would impact the direct care workforce and, where applicable, describes how they should be strengthened or extended.

⁸ Cook, Allison. *New York State’s Direct Care Workforce*. Bronx, NY: PHI. <https://www.phinational.org/resource/new-york-states-direct-care-workforce/>.

Medicaid Global Cap Extension

Part A of the Executive Budget proposes to extend the Medicaid Global Cap through FY 2025. As we have in previous budget testimony, PHI asserts that the Medicaid Global Cap remains antithetical to the intent of the Medicaid program—which is to cover all those who are eligible to enroll. While PHI supports efforts to create efficiencies and maximize innovation in New York’s Medicaid program, these efforts should not result in financial strain for providers and poor-quality jobs for workers, nor unmet needs among Medicaid-eligible New Yorkers. **PHI therefore calls on the legislature to end the Medicaid Global Cap.**

Long-Term Care Program Reforms

Part I (§§ 2-6) of the Executive Budget, which would extend the moratorium on the processing and approval of MLTC plan applications until March 31, 2027, includes a requirement that MLTC plans meet certain performance standards tied to their contracts with licensed home care services agencies (LHCSAs). As the state is working to reduce and consolidate the number of LHCSAs, it has become even more vital to ensure that these agencies are offering quality jobs that will attract and retain workers. As MLTC plans contract with LHCSAs, they should be evaluating those agencies partly on their quality as an employer of direct care workers. For this reason, **PHI urges the legislature to require the Department of Health to include workforce standards for the LHCSAs contracted with MLTC plans in the evaluative criteria for approving MLTC plans.**

Part I (§§ 13-14) also proposes a rate increase of 5 percent for residential health care facilities and assisted living programs. PHI supports investing in the long-term care system and understands that long-term care providers must receive reimbursement that fully covers the costs of service provision, including all labor costs. In particular, we recognize that in light of provider cost increases (e.g., from the pandemic and inflation), providers need to have sufficient resources to stabilize the workforce. This increased rate does not include home care, a significant oversight. It is critical, given the statewide shortage of direct care workers, that increased provider reimbursement rates are invested in better quality and higher-paying jobs to attract people to the direct care workforce across the long-term care spectrum. Along with this rate increase, therefore, **PHI recommends that the legislature increase the reimbursement rate for all HCBS providers and include a requirement that a proportion of the rate increase be invested in direct care workers in the form of wages, benefits, training, or other forms of workforce enhancement.**

Part I (§ 15) also proposes eliminating wage parity for the Consumer Directed Personal Assistance Program (CDPAP) in New York City and in Nassau, Suffolk, and Westchester

counties. This change would allow home care workers employed by consumers in CDPAP to be paid differing amounts from workers employed by agencies. Wage disparities such as these—even if benefiting one segment of the workforce—can drive direct care workers to change jobs, transferring worker shortages from one care setting to the other without addressing the global shortage of direct care workers. **Therefore, PHI urges the legislature to maintain wage parity for direct care workers in different settings, while improving pay and job quality across all settings.**

Finally, Part I (§§ 16-18) proposes to establish a fund to pay health insurance premiums for CDPAP aides. It is vitally important to ensure direct care workers—in all settings—can access affordable health benefits, not only for the well-being of the workers, but also to address the direct care worker shortage in New York. **PHI supports this investment in CDPAP aides and calls on the legislature to ensure that direct care workers in all settings have access to affordable health coverage.**

Allow Health Care Providers to do More

Part W of the Executive Budget (§§ 24-26) proposes to extend authorization of the advanced home health aide role and remove some supervision requirements. Advanced roles (like advanced home health aide positions) are crucial to addressing New York's severe shortage of direct care workers while providing better care to clients/residents. When linked to enhanced training, an elevated title, and higher wages, advanced roles for direct care workers are an important way to strengthen workforce retention, maximize direct care workers' contributions to care, and achieve quality outcomes and cost savings.⁹ Unfortunately, since the advanced home health aide position was created by law in 2016, it has never been implemented due to cost-prohibitive training and clinical supervision requirements.¹⁰ While this proposal would modify the clinical supervision requirements, the program still lacks the funding needed to move forward. Thus, **PHI supports the extension of the advanced home health aide position and the removal of prohibitive supervision requirements and calls on the legislature to fully fund the costs of implementing this role.**

Similarly, Part W (§§ 27-29) authorizes certified medication aides to administer some medications in residential health care facilities as part of a pilot program. The certified medication aide position provides a career advancement opportunity for certified nurse aides, making these jobs more attractive. But funding is required to encourage uptake among employers and workers. Again, **PHI urges the legislature to fully fund the costs of implementing a new**

⁹ Campbell, Stephen, Angelina Del Rio Drake, Robert Espinoza, and Kezia Scales. 2021. *Caring for the Future: The Power and Potential of America's Direct Care Workforce*. Bronx, NY: PHI. <http://phinational.org/caringforthefuture/>.

¹⁰ "Advanced Home Health Aides." New York State Department of Health. Accessed February 9, 2023. https://www.health.ny.gov/facilities/home_care/advanced_home_health_aides/.

certified medication aide role in residential health care facilities, including the costs of training, supervision, and wage increases to reflect this additional level of responsibility.

Nurse Agency Staffing Practice Recommendations

Part X of the Executive Budget proposes to more closely study and regulate temporary health care services agencies. Since temporary staffing has been implemented at such significant levels, it has created a large impact both on the cost and quality/consistency of care. Due to the cost of agency staffing, providers have fewer resources to invest in their staff, which further impacts staff stability, retention, and training. Accordingly, the reliance on agency staffing has reduced providers' ability to enhance job quality and, thereby, attract and retain the permanent workforce they need. Consequently, we agree that the state should collect data, creating transparency around the use of temporary staffing, and use it to inform decision making. **PHI supports this proposal to study and regulate temporary health care services agencies.**

Ensure Access to Aging Services and High-Quality Long-Term Care

Part Z of the Executive Budget proposes to increase transparency and improve oversight over long-term care facilities. Greater transparency is vital in all areas of long-term care services to ensure high-quality care and to create efficiencies and capacity. PHI supports the implementation of quality measures and reporting requirements for assisted living residences as proposed in Part Z with the proviso that these quality measures and reporting requirements should cover direct care workforce topics (e.g., wages, benefits, turnover data, etc.). **Thus, PHI supports these requirements for long-term care facilities, but asks the legislature to require the Department of Health (DOH) to include quality indicators relevant to the workforce.**

Additional Recommendation: Improve Direct Care Workforce Data Collection

Insufficient data on the direct care workforce in New York makes it difficult to quantify workforce shortages and other challenges, monitor workforce trends over time, design policy and practice interventions, and evaluate their impact. To help address this significant gap, **PHI urges the New York State legislature to allocate additional funds to improve the collection, monitoring, and reporting of direct care workforce-related information across all long-term care settings. As a first step, the state should survey all relevant departments and agencies to catalog existing workforce-related data collection mechanisms and to identify gaps and inconsistencies. Going further, the state could fund a survey of direct care workers to gather their firsthand experiences, insights, and recommendations for improving job quality.**



Conclusion

PHI appreciates the opportunity to provide testimony on the FY24 Executive Budget for New York State. We look forward to working with Governor Hochul and the legislature to strengthen New York's direct care workforce, improve the quality of long-term care services and supports, and build a more equitable state. To discuss these proposals in more detail, please contact Amy Robins at arobins@PHInational.org or (718) 928-2041.