

1 BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON AGING,
3 STANDING COMMITTEE ON HEALTH,
4 AND
5 STANDING COMMITTEE ON LABOR
6 -----

7
8 JOINT PUBLIC HEARING:

9 NURSING HOME, ASSISTED LIVING, AND
10 HOME CARE WORKFORCE - CHALLENGES AND SOLUTIONS
11 -----

12 Van Buren Hearing Room A
13 Legislative Office Building, 2nd Floor

14 Date: July 27, 2021
15 Time: 9:00 a.m.

16
17 PRESIDING:

18 Senator Rachel May, Chair
19 NYS Senate Standing Committee on Aging

20 Senator Gustavo Rivera, Chair
21 NYS Senate Standing Committee on Health

22 Senator Jessica Ramos, Chair
23 NYS Senate Standing Committee on Labor

24
25 PRESENT:

Senator Brian A. Benjamin

Senator George M. Borello

Senator Shelley B. Mayer

Senator Peter Oberacker

Senator Susan J. Serino

1	SPEAKERS:	PAGE	QUESTIONS
2	Meghan Parker	15	33
3	Director of Advocacy		
4	New York Association on Independent Living		
5	Jim Clancy	15	33
6	Sr. Vice President for State Policy		
7	Dora Fisher	15	33
8	Director of Post-Acute and Continuing Care Services		
9	Healthcare Association of New York State		
10	Lisa Newman	15	33
11	Executive Director Empire State Association of Assisted Living		
12	Stephen B. Hanse	65	74
13	President & CEO		
14	Lisa Volk	65	74
15	Director, Clinical & Quality Services		
16	Tarrah Quinlan	65	74
17	Director, Education Program Development & Member Operations NYS Health Facilities Assoc., and New York State Center for Assisted Living		
18	Eugene Hickey	97	103
19	Secretary-Treasurer		
20	Francine Streich	97	103
21	Field Direction		
22	UFCW, Local 2013 (Brooklyn, NY)		
23	Grace Bogdanove	122	136
24	Vice President, Western New York Nursing Home Division		
25	William Roe	122	136
	Licensed Practical Nurse		
	Tonya Blackshear	122	136
	Certified Nursing Assistant		
	1099 SEIU, United Healthcare Workers East		

1	SPEAKERS (continued):	PAGE	QUESTIONS
2			
3	Sarah Daly	163	178
4	Government Relations Analyst		
5	LeadingAge New York		
6			
7	Michele O'Connor	163	178
8	Legislative & Policy Director		
9	Argentum/Argentum NY		
10			
11	Doug Wissman	163	178
12	Board Member		
13	Greater New York Health Care		
14	Facilities Association		
15			
16	Dallas Nelson, MD	187	196
17	NY Medical Directors Association		
18			
19	Diedre Gilkes, RN	187	196
20	NY State Nurses Association		
21			
22	Hannah Diamond	210	224
23	State Policy Advocacy Specialist		
24	PHI		
25			
26	Maria Alvarez	210	224
27	Executive Director		
28	Statewide Senior Action Council		
29			
30	Lindsay Heckler, Esq.	210	224
31	Supervising Attorney Center		
32	for Elder Law & Justice		
33			
34	Agnes McCray	248	259
35	Board President of ARISE,		
36	Human Rights Advocate, and		
37	Home Care Consumer		
38			
39	Marcella Goheen	248	259
40	Founder of EssentialCareVisitor.com		
41			
42	Rona Shapiro	264	279
43	Executive Vice President,		
44	Home Care Division		
45	Lilieth Clacken	264	279
46	Home Health Aide		
47	1199 SEIU, United Healthcare		
48	Workers East		

1	SPEAKERS (continued):	PAGE	QUESTIONS
2	Jason B. Brooks	264	279
3	Personal Care Assistant		
4	Healthcare Workers Rising		
5	Martha Davila	264	279
6	Home Care Attendant		
7	Ilana Berger	296	314
8	Coordinator		
9	New York Caring Majority		
10	A reader for Sandra Moore Giles	296	314
11	Senior Home Care Consumer		
12	Sandra Abramson	296	314
13	Family Caregiver		
14	Mildred Garcia Gallery	296	314
15	Ageless Companions		
16	Mary Lister	320	330
17	Home Care Worker		
18	A Founding Member of the		
19	Queens City Workers Center		
20	Ignacia Reyes	320	330
21	Home Care Worker		
22	JoAnn Lum	320	330
23	Mobilization Against Sweatshops		
24	Ain't I a Woman/! Campaign		
25	Carlyn Cowen	343	350/366
26	Chinese-American Planning Council		
27	Rebecca Preve	353	366
28	Executive Director		
29	The Association on Aging in New York		
30	Tara Klein	353	366
31	Senior Policy Analyst		
32	United Neighborhood Houses		
33	Melissa Wendland	375	
34	Director of Strategic Initiatives		
35	Common Ground Health		

1	SPEAKERS (continued):	PAGE	QUESTIONS
2	Claire Pendergrast, MPH	375	
3	Syracuse University Lerner Center		
4	for Public Health Promotion		
5	Bryan O'Malley	384	
6	Consumer Directed Personal Assistance		
7	Association of NYS		
8	Heidi Siegfried	384	
9	Health Policy Director		
10	Center for Independence of		
11	the Disabled, NY		
12	Tania Anderson	384	
13	CEO		
14	ARISE		
15	Jeanne Chirico	400	414
16	CEO and President		
17	Hospice and Palliative Care		
18	Association of New York State		
19	Kathy Febraio	400	414
20	President and CEO		
21	NYS Assoc of Health Care Providers		
22	Al Cardillo	400	414
23	President & CEO		
24	Home Care Association of NYS		
25	Dana Arnone, RN	417	
26	Owner		
27	Reliance Home Senior Services		
28	Honorable Christine Pellegrino	417	
29	All Things Home Care, Inc.		
30	Faigie Horowitz	417	
31	Caring Professionals, Inc.		
32	Jim Hurley Home Instead Senior Care	417	
33	Christie Johnston	437	
34	NY Coalition of Downstate		
35	Homecare Agencies/Premier Home		
36	Health Care		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPEAKERS (continued):

PAGE QUESTIONS

Matthew Hetterich
Administrator
Gurwin Certified Home Health Agency

437

Veronica Charles
Director of Government Affairs
Maxim Healthcare Services

437

--oOo--

1 SENATOR MAY: Good morning.

2 Hi, everybody.

3 Welcome to our first in-person hearing in,
4 what, like 18 months?

5 It's amazing.

6 So I am Senator Rachel May. I am the chair
7 of the Senate Aging Committee.

8 And I am thrilled to welcome everybody here
9 to this hearing on workforce challenges in
10 long-term care settings, including nursing homes,
11 assisted-living sites, and in-home care settings.

12 I am joined by my colleagues, Gustavo Rivera,
13 chair of Senate Health Committee; and Jessica Ramos,
14 the chair of the Senate Labor Committee; and as of
15 now, by two additional senators, Senator Borello and
16 Senator Serino, who are both on the Aging Committee
17 as well.

18 Today's hearing will be an opportunity for us
19 to provide -- to hear from providers of long-term
20 care, both institutions and the care workers
21 themselves, as well as many who have dedicated their
22 efforts to understanding, and improving, long-term
23 care in New York State.

24 Anyone with even a glancing familiarity with
25 this issue knows there is a crisis in our state.

1 Critical shortages of workers plagued the
2 home care and nursing care industries well before
3 the pandemic.

4 And the situation only got worse under the
5 pressures of COVID-19, from the need for infection
6 control, to the closing of childcare facilities, and
7 the health care -- health toll the virus took on
8 health-care workers themselves.

9 At the same time, New York also dealt this
10 sector a blow by cutting Medicaid allocations; and
11 just this month, by raising the minimum wage upstate
12 for fast-food workers, but not for home care
13 workers.

14 We know there is a crisis.

15 We are deeply grateful to everyone coming
16 forward today who is trying to solve it.

17 We want to learn from you about anything you
18 have tried that works, any unnecessary barriers you
19 faced to providing excellent care, and about any
20 measures we can take to improve recruitment and
21 retention of this critical workforce.

22 Before I give my colleagues an opportunity to
23 say a few opening words, I'd like to go over some
24 housekeeping items; and, also, thank those who
25 helped to organize and coordinate this effort,

1 including Senate event staff; and my staff,
2 Zach Zeliff, Kristin Williams, and Eric Vandervort,
3 and particularly my aging policy director,
4 Ingrid Gonzalez-McCurdy, who just joined our team in
5 March, and has jumped in with both feet to make this
6 hearing a success.

7 Those testifying today have been grouped on
8 small panels, and are listed on the witness list,
9 which is available at, the back table? I'm not sure
10 where -- somewhere, you can find it in this room.

11 We will call witnesses down by panel.

12 We encourage them to keep their remarks
13 brief, with an absolute limit of five minutes, so
14 that we can have time for questions.

15 We have many people expecting to testify, and
16 expect a full day.

17 We will hear testimony from now until noon,
18 and then we'll take a break, and return for the
19 second part of the hearing.

20 Written testimony that has been shared to our
21 offices will be added to the archived hearing event
22 on the Senate website, and should be available for
23 public viewing soon after the hearing.

24 Today's hearing is also being live-streamed
25 on the nysenate.gov website.

1 I will now turn it over to our Health chair,
2 Senator Gustavo Rivera.

3 While he does that, let me ask the first
4 panel to come down and get start -- get settled.

5 If you know who you are, that's
6 Meghan Parker, Dora Fisher, Jim Clancy, and
7 Lisa Newcomb.

8 SENATOR RIVERA: Thank you, Senator May.

9 I will be very brief.

10 Thank you for being here.

11 It is a pleasure to actually see people in
12 person again. And I'm hoping that this means that
13 we will be doing these going forward.

14 I'm looking forward to hearing from everyone
15 today. We understand the great pressure that
16 workers in the health-care field, particularly in
17 these types of settings, have under normal
18 circumstances. And the pandemic only made it worse.

19 So I'm certainly looking forward to all the
20 inputs that we will have today, and we have a long
21 one, since we have two hearings back to back.

22 I'm here to back up my two colleagues.

23 Very happy to be back here, and looking
24 forward to what the day will bring.

25 Thank you, Senator May.

1 SENATOR RAMOS: Good morning, everybody.

2 (Speaking Spanish.)

3 My name is Jessica Ramos. I am the
4 New York State senator representing District 13 in
5 Queens. I also have the honor of chairing the
6 Labor Committee in the New York State Senate.

7 I'm very excited about today's hearing
8 because I think, by and large, there is a societal
9 indifference to a workforce that is largely Black,
10 Latino, women, and who are often taken advantage of,
11 and are paid low wages, and, very often, lack
12 dignity on the job.

13 So I'm eager to hear stories from both the
14 industry, from workers, and from everyone who will
15 be testifying today, just about the lack of
16 investment that our state has made in long-term
17 care, in assisted living, in our nursing homes, for
18 certain.

19 I think we can all agree that the pandemic
20 really peeled back the onion, layer by layer,
21 showing us just how much work there is to do in this
22 sector so that everyone can be taken care of in a
23 better way.

24 You know, as probably one of the youngest
25 senators, I very much care about how my parents and

1 the rest of their generation will be taken care of
2 as more of our baby boomers age day by day.

3 And, hopefully, establishing a better
4 standard by the time we reach that stage.

5 And that's, I think, what this is really
6 about: making sure that New Yorkers, generation
7 after generation, feel taken care of; and that the
8 workforce, those who are caring for us, are paid
9 living wages, and treated with dignity and respect
10 on the job.

11 I want to thank my colleagues for co-chairing
12 this hearing with me.

13 And I want to thank all of the Senate staff,
14 and my legislative director, Nathan Burger, who's
15 here with me today.

16 Thank you.

17 SENATOR MAY: Thank you, Senator Ramos, for
18 making us baby boomers feel ourselves aging day by
19 day.

20 [Laughter.]

21 SENATOR RAMOS: I love you so much.

22 SENATOR MAY: We have the ranking member of
23 the Aging Committee here, Senator Serino, who would
24 like to say a few words.

25 SENATOR SERINO: Thank you very much,

1 Senator May.

2 SENATOR BORELLO: Oh, we're back to the
3 microphones not necessarily working.

4 SENATOR RIVERA: Oh, memories.

5 SENATOR SERINO: This one is working.

6 Okay.

7 So I just want to say thank you, Senator May,
8 and Senators, for having this hearing today.

9 You know, as we all know, the workforce
10 shortage that we're seeing across the care continuum
11 is a public health emergency. And we know it is
12 only getting worse as our population ages.

13 And I've heard from too many neighbors who
14 cannot access quality care simply because of a lack
15 of staff, both in home care and in residential
16 health-care settings.

17 So I'm really looking forward to hearing from
18 the witnesses today. I think it's going to be a
19 great day.

20 And I just had a question.

21 I don't see the Department of Health on our
22 list.

23 Were they invited today? Do you know?

24 SENATOR MAY: I don't remember. I don't
25 think they were invited.

1 We decided that this was really about hearing
2 solutions coming from outside the department, so
3 that we could give a report to the department.

4 SENATOR SERINO: Oh. Because they just have
5 such a huge part to play in this.

6 I'm just kind of surprised that they're not
7 here with us today; a little disappointing.

8 But, thank you.

9 I look forward to hearing from everyone
10 today.

11 SENATOR MAY: Senator Borello, do you want to
12 say a few words?

13 SENATOR BORELLO: Sure.

14 First of all I want to say, thank you very
15 much for having this hearing. I'd like to thank my
16 colleagues for this.

17 I think this is an incredibly important
18 issue.

19 Now, I represent some of the most rural areas
20 of New York State.

21 We already have staffing shortages. And we
22 have an administration that has, for nine years in a
23 row, cut Medicaid reimbursements.

24 So we're asking for more pay for employees,
25 which they deserve, while we're cutting

1 reimbursements.

2 We have already seen the impact of that, and
3 we are going to continue to see that if we don't
4 address this issue, and understand the cause and
5 effect. Things don't happen in a vacuum.

6 And I'm hopeful that this panel will shed
7 some light on the real challenges: the people that
8 are caring for our most vulnerable citizens need our
9 support.

10 We saw cuts to Medicaid reimbursements, but
11 we had massive increases in a budget that was a
12 record-breaking \$215 billion, and yet we cannot
13 support our most vulnerable citizens and the people
14 that care for them.

15 So I look forward to hearing from you, and
16 what solutions we may be able to come up with to
17 help you, rather than hinder you, because, right
18 now, the State's mostly in the hindering business,
19 and not in the helping business, when it comes to
20 caring for our most vulnerable citizens.

21 Thank you.

22 SENATOR MAY: All right. Thank you.

23 With that, we will start with our first
24 panel. And I will let you introduce yourselves.

25 So, beginning with Meghan Parker.

1 MEGHAN PARKER: Is this on?

2 SENATOR MAY: Yes.

3 MEGHAN PARKER: Okay. Great.

4 Good morning.

5 Hi. My name is Meghan Parker.

6 Thank you for the opportunity to testify here
7 today on behalf of the New York Association on
8 Independent Living, or "NYAIL."

9 And thank you for squeezing me in at the
10 beginning of the hearing so I could testify.
11 I appreciate it.

12 NYAIL and our member independent living
13 centers provide and orient services that help people
14 to live as independently as possible in their
15 community, and to transition them from nursing
16 homes.

17 At the statewide level, NYAIL coordinates a
18 couple of programs, including the Money Follows the
19 Person-funded Open Doors program, which staffs a
20 team of transition specialists across the state that
21 actually go into nursing homes and help people
22 transition back into the community.

23 We also coordinate the Olmstead housing
24 subsidy and rapid transition program, two rental
25 subsidy programs that help people leave

1 institutions, and provide them with supportive
2 services and assistance with locating accessible
3 housing.

4 And what I keep hearing from people who run
5 these programs, and people across the state, is,
6 more and more, increasingly, they work with people,
7 they line them up with all the necessary supports
8 and services they need to transition. They actually
9 find them an accessible apartment in the community,
10 no easy feat; have a lease and everything. And then
11 people are unable to leave because they cannot line
12 up home care.

13 So, you know, nurse -- independent living
14 centers have been helping people, for a long time,
15 transition from nursing homes. And there has long
16 been a shortage in certain regions of the state in
17 getting home care.

18 But, in recent years, it has really increased
19 dramatically so that it's now an acute crisis, from
20 Long Island to Buffalo, with no regions in between,
21 really, avoiding this crisis.

22 This -- there are a number of ways in which
23 this is problematic, including the State having an
24 obligation under the Supreme Court's
25 1999 Olmstead v. L.C. decision, which affirmed

1 that people with disabilities and seniors have the
2 right to live and receive services in the most
3 integrated setting, their home communities. And, of
4 course, being able to access home care is a
5 necessary component of that.

6 And so this crisis has only increased.

7 And in my written testimony, I do go through
8 various ways in which people who provide the
9 services outlined, that they used to be able to use,
10 to help get the harder-to-serve people out of
11 institutions and access home care, including they
12 used to sometimes, for harder-to-serve people, be
13 able to access like an enhanced rate.

14 So, for example, if someone lived in a rural
15 area, and they had trouble getting home care workers
16 to come out, their MLTCs might approve an enhanced
17 rate to serve that person. But that really no
18 longer exists, the problem is too widespread.

19 I don't have time to go into all the
20 barriers, but, you know, we're also seeing a much
21 heavier burden being put on family members, to be
22 backups, as there are no available home care workers
23 to show up in the inevitable event that someone
24 doesn't show up for their shift.

25 We're finding, more and more, that when

1 people apply for traditional home care, they are
2 told that they're either going to have to wait
3 months and months to get home care, or go into the
4 Consumer Directed Personal Assistance program
5 (CDPA), you know, basically, shifting the
6 responsibility to consumers to find and recruit
7 their own aides. And this is not an appropriate
8 option for everybody.

9 And the longer somebody is in an institution,
10 the more isolated they become.

11 And so they really don't have the same
12 community supports.

13 And, of course, CDPA really is a program that
14 kind of relies heavily on family members who are
15 willing to provide these services for the paltry
16 wages provided. And so it becomes a barrier,
17 especially the longer someone is in, to them being
18 able to transition back out.

19 This wasn't always the case.

20 Back in 2006, home care workers earned about
21 150 percent of minimum wage. And this is the time
22 when it was much easier to locate home care workers;
23 it was much more readily available.

24 But in recent years, as the minimum wage has
25 gone up, as has wages in other sectors, home care

1 workers now make minimum wage.

2 And as Senator May rightly pointed out at the
3 beginning, as of this month, in all the counties
4 north and west of Westchester, home care workers
5 make \$2.50 less an hour than they would make if they
6 were working in a fast-food restaurant, which is
7 only going to compound this crisis because, of
8 course, providing home care is physically and
9 emotionally demanding work.

10 And why would somebody keep doing it if they
11 could have a much less stressful job and make
12 significantly more an hour doing something else,
13 like working at a fast-food restaurant.

14 SENATOR MAY: Sorry, but I need to interrupt
15 you because you're after your five-minute limit.

16 Can you close -- wrap up really quick?

17 MEGHAN PARKER: Okay. Let me just wrap up
18 real quick, and say: That the answer to the crisis
19 is to enact the Fair Pay for Home Care Act, that
20 Senator May introduced earlier this year.

21 And thank you for your leadership on that.

22 It would increase wages to 150 percent of
23 minimum wage, and take care of the home care crisis
24 over the next few years.

25 My testimony does outline a recent CUNY

1 report, that goes into the economic-development
2 benefits of passing Fair Pay for Home Care, as well
3 as how it would address the crisis.

4 This is a desperate situation.

5 People with disabilities are not able to
6 access home care.

7 And we just really implore you to take action
8 in the upcoming budget, and pass Fair Pay for Home
9 Care, so people are able to access home care in the
10 community.

11 So, thank you.

12 SENATOR MAY: Thank you.

13 And just as one more housekeeping matter,
14 I believe the witnesses can -- there is a clock that
15 is [indiscernible] from this table, but we can't see
16 it.

17 So Zach will hold up his hand when
18 five minutes are up so that we can know as well.

19 But thank you so much for your testimony.

20 MEGHAN PARKER: Thank you.

21 SENATOR MAY: And we have Dora Fisher next.

22 JIM CLANCY: Hi, good morning, Senator.

23 My name is Jim Clancy. I work with
24 [inaudible].

25 SENATOR MAY: Oh, okay.

1 JIM CLANCY: We both represent HANYS. So if
2 that's okay, I'll start.

3 SENATOR MAY: That's fine.

4 JIM CLANCY: The mic is on?

5 SENATOR MAY: Yes.

6 JIM CLANCY: The mic is on.

7 Good morning, Chairs May, Rivera, Ramos, and
8 the committee members.

9 We appreciate this opportunity here this
10 morning.

11 I'm Jim Clancy, senior vice president for
12 state policy at the Healthcare Association of
13 New York State, representing not-for-profit
14 hospitals, health systems, and post-acute-care
15 providers across New York.

16 I'm joined with my colleague -- by my
17 colleague, Dora Fisher here, the director of
18 post-acute and continued care services for HANYS.

19 Again, thank you for this opportunity.

20 Recruiting and retaining a robust
21 long-term-care workforce in New York has been a
22 challenge for many years.

23 Those who come -- those who become
24 long-term-care providers desire to provide
25 compassionate, quality care; however, the physical

1 and psychological demands, coupled with financial
2 limitations, can inhibit career growth and drive
3 high turnover.

4 The COVID-19 pandemic has certainly
5 exasperated that problem.

6 Staff turnover in nursing homes had reached
7 alarming heights long before the pandemic, with
8 average turnover rates in 2017-18 nearing
9 94 percent.

10 Earlier this year, the State enacted several
11 measures aimed at staffing in nursing homes.

12 These include, mandated that nursing homes
13 direct a minimum of 70 percent of their revenue
14 toward direct resident care, and maintain average of
15 at least 3.5 hours of nursing-care resident per day.

16 These new policies do not address the
17 underlying issue of chronic Medicaid underfunding,
18 which is the primary driver and root cause of
19 long-term-care workforce challenges, including
20 shortages and high turnover rates.

21 Over 70 percent of New York's nursing home
22 resident care is paid for through Medicaid, which
23 currently reimburses hospitals and their
24 long-term-care providers an average of 67 cents per
25 dollar spent on care.

1 According to a recent analysis conducted by
2 Hansen Hunter & Company, the nursing home Medicaid
3 shortfall in New York State totals \$64 per resident
4 per day.

5 When annualized, that Medicaid shortfall for
6 New York's nursing homes total an estimated
7 \$1.5 billion in 2017.

8 Roughly two-thirds of New York public and
9 not-for-profit nursing homes deliver care on
10 negative operating margins. The median operating
11 margin in these homes is negative 2.9 percent.

12 To make matters worse, the current fiscal
13 year's enacted state budget estimated 200 million
14 nursing home Medicaid rate reduction on top of a
15 1.5 percent across-the-board Medicaid cut the year
16 before.

17 HANYs is committed to working with state
18 government and all health-care stakeholders as we
19 pursue our common goal: ensuring nursing homes are
20 able to provide the highest quality of care, and
21 support the first-rate workforce.

22 Toward that aim, HANYs recommends the
23 following actions to ensure nursing homes are
24 equipped to address the state's long-term-care
25 workforce challenges, and maintain a continued

1 access to high-quality, safe nursing home care:

2 First: Enhance Medicaid reimbursement paid
3 to nursing homes to cover full cost of staffing.

4 Delivering quality care, and maintaining
5 adequate staffing levels, starts with ensuring
6 nursing homes have the necessary resources to cover
7 the full cost of recruiting, training, and retaining
8 staff.

9 Second: Support workforce training programs
10 and career ladders.

11 Workforce training programs are critical to
12 increasing recruitment, ensuring staff can meet the
13 needs of the population, increasing the number of
14 individuals who are likely to pursue careers in
15 health care, and building skills for those who have
16 already begun work in health care.

17 The career ladder is an important piece of
18 building and retaining a quality long-term-care
19 workforce.

20 These pathways must be reinforced and
21 supported to enable staff to grow professionally,
22 and ensure nursing homes can retain their
23 high-quality staff.

24 Three: Support apprenticeship programs and
25 other innovative workforce models.

1 Apprenticeship programs have proven
2 successful in New York State, where workers receive
3 the combination of classroom and on-the-job
4 training, as well as receiving college credits
5 centered on nursing home life.

6 HANYS recommends State support to enable
7 development of additional apprenticeship
8 opportunities across the state, through the 1115
9 Medicaid waiver, the Department of Labor, or other
10 programs.

11 And, four: Advance regulatory relief.

12 We encourage the Department of Health and the
13 legislature to make permanent key COVID-19 executive
14 order flexibilities, and to further streamline
15 regulatory requirements for long-term-care
16 providers, which would enable nursing home
17 administrators, clinical staff, and other members of
18 the care team to spend their time where it matters
19 most, delivering resident care.

20 In conclusion, HANYS, on behalf of all of our
21 members, thanks you for providing the opportunity to
22 address this urgent matter.

23 We appreciate the support of the legislature,
24 and look forward to continuing the progress we have
25 all made together.

1 Thank you.

2 SENATOR MAY: Thank you.

3 And do you wish to testify in addition,
4 Ms. Fisher?

5 JIM CLANCY: Did you want to say anything?

6 DORA FISHER: Yes, absolutely.

7 As the director of long-term care for HANYS,
8 I speak to our nursing home administrators daily.

9 And I hear how passionately they care about
10 the work that they do, providing care to those who
11 society has forgotten: frail, vulnerable older
12 adults.

13 Our members provide care in both urban and
14 rural settings that -- with high levels of poverty.
15 Across the state, a third of older adults are at or
16 near the poverty level, which means that our members
17 rely on Medicaid reimbursement rates.

18 And, frankly, it is getting very hard for
19 them to maintain and retain staff.

20 And thank you very much for this opportunity
21 to speak.

22 SENATOR MAY: Thank you.

23 And, finally, Lisa Newcomb.

24 LISA NEWCOMB: Good morning, Senators, and
25 thank you for this opportunity.

1 I'm Lisa Newcomb, executive director of the
2 Empire State Association of Assisted Living, and we
3 represent more than 300 licensed adult homes,
4 enriched housing programs, assisted-living
5 residences, and assisted-living programs across the
6 state, serving more than 30,000 frail elderly
7 seniors.

8 Our members include self-pay, sometimes
9 referred to in this industry as "private pay." And
10 I'll have a note on that in a moment;

11 Others serve residents that have little or no
12 income by way of [indiscernible], supplemental
13 security income, or "SSI" payment;

14 And some also have served SSI, and also have
15 the assisted-living program, which is a Medicaid
16 daily rate;

17 And for licensed home care services.

18 Back to that note on self-pay, when it comes
19 to assisted living, I think that there's a
20 perception that the residents living in some of
21 these higher-end, you know, are extremely wealthy
22 with, you know, endless funds.

23 But the overwhelming majority of people that
24 are self-pay have limited incomes. They are paying
25 from their pensions and from their life savings.

1 And they are the most price sensitive, you know,
2 when costs have to be passed along to them.

3 So I just want to, you know, speak for those
4 middle people because there's a lot of them out
5 there.

6 And in the last 10 years or more, both the
7 SSI and the [indiscernible] rates have remained
8 unchanged.

9 I cite in my testimony report, from PHI,
10 titled "Federal Policy Priorities for the Direct
11 Care Workforce," just some quick stats:

12 From 2019 to 2029, there will be 7.4 million
13 job openings, 6.9 openings -- 6.9 million of those
14 are due to workers transferring to other occupations
15 or exiting the workforce entirely.

16 87 percent are women, 59 percent are people
17 of color, and 27 percent are immigrants.

18 It's fair to say that the recruitment and
19 retention strategies that worked in the past are
20 nowhere near as effective now. Getting and keeping
21 staff is by far the biggest challenge in our
22 industry.

23 And it's important to note that assisted
24 livings can't close; we are a 24/7 business.

25 So strategies to close for a day or two to

1 give staff a break are not ones that we can employ.

2 I polled members, and got a very large return
3 response, and asked one question: What is the
4 number-one most important action that government can
5 take to increase workforce availability?

6 The overwhelming majority of respondents said
7 that, without additional financial resources, they
8 cannot compete with the continued expanded
9 unemployment benefits and other government subsidies
10 that incentivize workers to stay at home.

11 So some solutions to that problem:

12 Provide financial resources for wage
13 subsidies.

14 Use tax credits based on length of employment
15 to incentivize them to come and stay in assisted
16 living.

17 Offer loan forgiveness for nurses based on
18 length of employment.

19 Provide transportation incentives, such as
20 half-fare cards.

21 Better patrol the person collecting
22 unemployment, to -- and the point is to incentivize
23 people to work and not not to work.

24 The New York State spending plan for the
25 implementation of the American Rescue Plan of 2021,

1 with regard to the HCBS funding, because the State's
2 plan is directed at programs that are an MLTC
3 benefit, no assisted livings, no ACS, not even our
4 Medicaid funded out, are targeted to get one penny
5 of that, and that includes 623 million directed to
6 the long-term-care workforce for recruitment and
7 retention, and even to pay for PPE.

8 So we are completely shut out of all of that
9 funding. And we are a huge and growing part of the
10 long-term-care industry, and it's incredulous that
11 there is no funding proposed as part of that plan
12 for us.

13 So we ask, during the next, you know, set of
14 budget negotiations, to support and promote an
15 adjustment to our [indiscernible] rate, as well as
16 our SSI funding. And we implore the department to
17 direct some of these ARP funds to our residents.

18 Just some other quick recommendations:

19 Immigration reform.

20 Again, 27 percent of direct-care workforce
21 are immigrants.

22 Federal legislation to develop a new visa
23 classification for non-seasonal, non-agricultural
24 workers for jobs that don't require a college
25 degree, any initiatives like this could

1 significantly expand the pool.

2 I don't know how much you can do of that at
3 the state level, but to the extent that you can.

4 Training reform.

5 This is nuanced, but allow our enhanced
6 assisted-living residences which provide aging in
7 place to be able to operate home health aide
8 training programs.

9 It is extreme -- there is an extreme shortage
10 of training programs for certified home health aides
11 and personal care aides.

12 And those that do exist only really want to
13 train their own employees, because they have a hard
14 time, too, finding assistance.

15 So it makes it difficult for our enhanced
16 assisted-living residences to obtain training.

17 A couple of other little things:

18 Allow use of equal for staff benefits.

19 Right now, these approximately 6 million that
20 you provide to those ACFs that serve the indigent
21 cannot be used for staff -- for staffing.

22 Employee bonuses beyond their regular pay
23 should be an acceptable use of these funds.

24 And then, of course, in the long term, the
25 long-term-care educational track, very early on,

1 in -- beginning in high school.

2 Thank you.

3 SENATOR MAY: Okay. Thank you.

4 So the way this will work is, the chairs have
5 10 minutes for questioning, and everyone else has
6 five. But I want to say we have a very long list of
7 witnesses for the day, so we do not -- should not
8 feel that we have to use all of that time.

9 I would like to direct a few questions to
10 these providers, because I'm wondering what you have
11 experienced in the way of turnover rates in
12 staffing, and what that costs the providers, the
13 actual institutions, when staff turns over.

14 Do you have a sense of the cost of turnover?

15 JIM CLANCY: I can just say, you know, in the
16 testimony, we have, based on numbers from 2017-2018,
17 about 94 percent turnover.

18 SENATOR MAY: 94 percent on...?

19 JIM CLANCY: Turnover rate.

20 SENATOR MAY: Every year?

21 JIM CLANCY: In 2017-2018. So it's a little
22 dated right now. But I can't imagine that those
23 numbers are going to get better.

24 LISA NEWCOMB: No, I mean, I think that we do
25 have some members that -- particularly those that

1 serve SSI, that experience, that kind of turnover,
2 as well.

3 I think right now our bigger problem is
4 actually recruiting and getting them hired.

5 You know, retention is, you know, the
6 responsibility of the employer. And, you know, if
7 you're a good employer, you know, you can,
8 hopefully, not lose them to McDonald's.

9 But the recruitment, just because they're --
10 you know, they're not there, or they're not willing
11 to do the work, that's the issue.

12 JIM CLANCY: And we are losing them to
13 McDonald's.

14 SENATOR MAY: Is there any effort to
15 determine what the main cause is for people to
16 leave?

17 Do you do exit interviews, or that kind of
18 thing?

19 DORA FISHER: I can speak to this.

20 You know, ageism is endemic to our society.
21 And, these days, you can get a job at Walmart,
22 stocking shelves, for about the same price -- from
23 about the same wages that you can get at a nursing
24 home.

25 And nursing home work is incredibly grueling.

1 Even if people are excited about aging,
2 excited about older adults, it's still pretty hard
3 to swallow, toileting, grooming, all of that kind of
4 work, when you can just work at Walmart for the same
5 amount of money, or Dunkin' Donuts.

6 I think one of the things that Jim
7 highlighted in his testimony is the need for
8 apprenticeship and career-ladder programs, because
9 the key difference between a job at McDonald's and
10 a job at a nursing home should be a career; that you
11 are beginning a career.

12 And so we believe that we need to build that
13 infrastructure.

14 LISA NEWCOMB: And if I could add, at the
15 managerial level, I think lack of support from the
16 state Health Department really drives some of our
17 best administrators, executive directors, out of the
18 business.

19 SENATOR MAY: I'm sorry. Say that again.
20 What was the --

21 LISA NEWCOMB: Lack of support from New York
22 State/from the Department of Health; from the
23 regulating agency.

24 SENATOR MAY: Okay.

25 So I know, I've heard from many nursing home

1 administrators that there were a lot of regulatory
2 requirements as a result of the pandemic, of
3 counting PPE on a daily basis, and a lot of
4 reporting requirements.

5 Have any of those been eased, or do you still
6 have major staffing requirements for reporting?

7 LISA NEWCOMB: Well, I can't speak to nursing
8 homes.

9 JIM CLANCY: I would just say that there have
10 been some incremental reduction in mandated
11 reporting from -- for the nursing homes and
12 hospitals, but not enough.

13 We need to do more, working with the State
14 every day, to try and get that reduced.

15 SENATOR MAY: Are there specific things you
16 want to ask us to help with?

17 JIM CLANCY: Sure.

18 We would like to have HERDS reporting.

19 Right now, the hospitals and nursing homes
20 have to report to HERDS on a daily basis.

21 I'm not sure that that's needed. And maybe
22 have that reduced to a few days a week.

23 SENATOR MAY: Okay.

24 JIM CLANCY: But happy to talk about
25 specifics after this, Senator.

1 SENATOR MAY: And then my last question is
2 about staffing agencies.

3 So I know that there are a lot of kind of
4 temp nurses and temp health-care staff in hospitals.

5 Do nursing homes make use of that? And
6 what -- how does that -- what kind of wages do they
7 command?

8 Like, how does that affect your bottom line,
9 and the quality of care?

10 JIM CLANCY: Expensive. Very expensive.

11 And depending on where you are, there's
12 either little access in rural areas, or tremendous
13 competition in more populated areas, for that same
14 staff person.

15 So prices fluctuate for that reason.

16 SENATOR MAY: Okay.

17 I guess that's all I have right now.

18 Senator Rivera?

19 Senator Ramos?

20 He's deferring to you.

21 SENATOR RAMOS: Okay. Well, thank you,
22 Senator Rivera.

23 Well, my notes are all over the place, to be
24 honest with you, so bear with me, because it's
25 really unconscionable how high the turnover rate,

1 how big the shortage, is in this industry.

2 And so I'm wondering what type of support for
3 workforce training exists now, perhaps provided by
4 your organizations, perhaps provided by the state
5 Health Department.

6 What's out there now, if anything?

7 LISA NEWCOMB: Nothing directly for assisted
8 living.

9 SENATOR RAMOS: Nothing directly for assisted
10 living, or for nursing home care?

11 LISA NEWCOMB: Well, I can't speak for
12 nursing homes. I represent only assisted-living
13 facilities.

14 SENATOR RAMOS: Right.

15 I'm also wondering how many of your member
16 homes, or the agencies that are members of your
17 organizations, are -- have workforces that are
18 represented by a union?

19 What is the union density among your member
20 organizations or nursing homes or assisted-living
21 homes?

22 LISA NEWCOMB: In assisted living, it's a
23 small percentage, mostly in New York City. But
24 there are some upstate as well.

25 But most of the industry is not unionized.

1 SENATOR RAMOS: Well, I, of course, would
2 argue that that's also a big reason why wages aren't
3 very high.

4 It's not only the State's duty and
5 responsibility to raise the minimum wage, in my
6 humble opinion, pegging it to inflation.

7 But, of course, collective bargaining
8 agreements actually allow for workers to seek
9 incremental wages, and, hopefully, improvements in
10 terms of health and safety as well.

11 LISA NEWCOMB: I would say two things to
12 that:

13 When it comes to SSI, they don't really --
14 they're not interested, because there's no funding
15 there for them to get for their workers, because it
16 is so underfunded that there's no real opportunity
17 there.

18 On the higher end of assisted living, they --
19 you know, many of them do pay, you know, very, very
20 fair wages. And some have, you know -- there -- you
21 know, there have been discussions of unions, and the
22 workers have voted no.

23 That's not to say, you know, there are some,
24 you know, that have unions, and they work well,
25 and -- but I -- you know, on the -- for the

1 indigent, there's no -- there's no money in it for
2 anyone.

3 SENATOR RAMOS: Well, do any of the employers
4 hold captive-audience meetings in order to dissuade
5 the workers from organizing into a union?

6 LISA NEWCOMB: I -- not that I have ever
7 heard.

8 It's been -- the unions are just not actively
9 pursuing.

10 SENATOR RAMOS: Uh-huh.

11 JIM CLANCY: Senator, just real quick, to go
12 back to your first question about other programs.

13 Right now -- again, it's in our full
14 testimony. I did mention it in my comments. -- but
15 there are apprenticeship programs now in the state,
16 run through the district program, and also through
17 the Staten Island Performing Provider System, that
18 I mentioned that the mentoring and the college
19 credits.

20 So there are models out there that work.

21 SENATOR RAMOS: That work.

22 JIM CLANCY: Yeah.

23 SENATOR RAMOS: That was going to be my
24 follow-up: Well, how successful actually are they?

25 JIM CLANCY: They work, but we need to expand

1 on them. We need --

2 SENATOR RAMOS: Not that they're not --

3 JIM CLANCY: -- to make sure a lot of
4 resources get into those programs so that we can
5 expand them.

6 SENATOR RAMOS: -- sure, yeah.

7 You know, I keep thinking, and I said this in
8 my opening remarks, by and large, this workforce is
9 comprised of women of color, more often than not,
10 single moms, like myself. And the rising cost of
11 living in New York State is pretty astronomical,
12 starting with just childcare alone.

13 You know, on average, we spend around \$16,000
14 in childcare every year. And if you put that up
15 against the wages that these workers are paid,
16 they're really left with nothing.

17 I honestly don't know how they make ends
18 meet, and I can't wait to hear from the workers
19 themselves.

20 But I'm very interested in the workforce
21 training and apprenticeship program development.
22 And I'll probably be reaching out to all of you,
23 after, to see how we can work together on that.

24 Thank you.

25 JIM CLANCY: Thank you, Senator.

1 SENATOR RIVERA: I'm good.

2 SENATOR MAY: Senator Benjamin -- oh, before
3 you go, actually, I should welcome,
4 Senator Oberacker, Senator Benjamin, and
5 Senator Mayer who have joined us.

6 SENATOR BENJAMIN: Thank you.

7 Can you hear me?

8 One more time?

9 I actually want to pick up on my colleague
10 Senator Ramos's point about childcare.

11 Being that, you know, you're a living
12 facility, has there been some creative thoughts
13 around possibly helping some of your staff with
14 childcare within your space, so that that becomes an
15 attractive feature, compared to a McDonald's or a
16 Walmart, et cetera?

17 Because, I can tell you, childcare is very
18 expensive, in New York, in the country.

19 So has there been thoughts around that?

20 DORA FISHER: A few of our members have
21 piloted some creative solutions to support their
22 workforce with childcare, eldercare, and among other
23 issues that are barriers to maintaining employment,
24 such as, you know, incentives to get your car fixed,
25 things like that. And there have been a lot of

1 creative solutions.

2 I think getting back to Senator May's point
3 about staffing agencies, a lot of our members
4 believe that if they provide these kinds of support
5 for their staff, they're more likely to retain
6 staff, and not have to rely on agency as much.

7 So these are some creative ideas that have
8 been piloted, and I think some of them have been
9 shown to work.

10 And I would be happy to discuss later.

11 SENATOR BENJAMIN: Yeah, I think that that
12 would be something that can be a very obvious thing,
13 that given the industry that you're in, that you can
14 actually be a leader on providing, and be very
15 compelling, to people who want to sort of work in
16 this space, and know that their children are going
17 to be taken care of at the same time, I think it
18 would be very powerful.

19 And their children would not be very far from
20 them because they would be in a location that
21 they're near to.

22 So that's something that I think I would love
23 to hear more about.

24 The second question I have is about the issue
25 of the career advancement.

1 To your point, this is very hard work.

2 And I do think, to the extent that there is
3 some obvious sort of process to which they can
4 become a registered nurse, for example, et cetera,
5 that is very transparent and clear, I wonder if that
6 also, in addition to some of the personal issues,
7 would help with the process of retaining workers.

8 Any thoughts on that?

9 JIM CLANCY: Yeah, I just would like to say,
10 I would very much like to continue that conversation
11 as we start to get into the next legislative
12 session.

13 I think we have, as an industry, as a
14 provider, and as providers have -- want to work with
15 the State, particularly state Education Department,
16 with respect to licensure, scope of practice. You
17 know, we have professionals that we want to make
18 sure, and I know the State wants, too, everyone
19 [indiscernible] their license.

20 So if we can have conversation with that as
21 we kind of round the end of 2021, to '22, I think
22 we've got some creative ideas we would like to
23 share.

24 SENATOR BENJAMIN: Sure.

25 Last question, and I know I missed the

1 beginning, so I apologize: What are the learning
2 lessons that you have seen from COVID thus far?

3 Obviously, we are not out of COVID yet, but
4 learning lessons that you've seen thus far?

5 I know in every sector there have been -- you
6 know, obviously, COVID has been devastation.

7 But there have been some things that we have
8 learned and picked up, that we will continue, going
9 forward, even as we get past COVID.

10 Are there -- what are some of those things
11 that you have seen in the industry that you think
12 can help, you know, guide the future of what
13 assisted living looks like, going forward?

14 LISA NEWCOMB: Well, you know, I have polled
15 our members on that, and I've gotten a lot of
16 different types of responses.

17 Certainly, one overarching theme is just the
18 whole infection control.

19 I mean, that was always a thing before COVID,
20 but this, you know, has certainly, I think, you
21 know, sensitized them. And, you know, that is not
22 going away.

23 COVID was a major shock to the
24 assisted-living network because it is such a social
25 environment.

1 You know, our residents, while they're
2 elderly, they -- you know, they are not, you know,
3 bed-bound. They're active. They come and they go,
4 you know, all the time. People are coming into the
5 assisted-living community all the time.

6 And the isolation, you know, that they
7 experienced, because, you know, they couldn't have
8 visitors, I think that, you know, our members say
9 that it just brought their staff closer to the
10 residents. Because they, you know, were filling in
11 for that -- that family member that couldn't be
12 there, as best as they could.

13 You know, lots of other lessons learned, to
14 just, you know, kind of trust your instincts when
15 you're in the middle of -- you know, of a major
16 calamity, and there's no answers that anybody, you
17 know, no solutions that people, are providing, that
18 you go with your gut.

19 And, you know, I think our members have done
20 a tremendous job.

21 You know, any death is too many. But, you
22 know, the number of residents that passed away is,
23 you know, certainly, significantly smaller than
24 nursing homes, because our residents, frankly, are
25 just not quite as frail.

1 JIM CLANCY: And I would just add, to state
2 the obvious, the professional and heroic actions of
3 first responders, providers, everyone in the
4 health-care community, regardless of where they
5 were.

6 But I would say, also, the flexibility -- and
7 this goes back to the point, your previous question,
8 talking about licensure -- the flexibility that the
9 providers were given in the last 18 months, to make
10 sure that they got the job done for their
11 communities, was a lesson I hope that we can build
12 on, moving forward.

13 SENATOR BENJAMIN: Thank you.

14 SENATOR MAY: Thank you.

15 I guess Senator Serino has a question?

16 SENATOR SERINO: Thank you, Senator May.

17 And I just want to say, thank you so much.

18 You know, you are all so passionate and
19 caring for our most vulnerable. And I really
20 appreciate your testimony today.

21 I'm a huge supporter of the apprenticeship
22 programs, but they only work if students know about
23 them.

24 So I just wanted to ask you, like, do you
25 think the State is doing enough to inform people

1 about that?

2 Like, what could we do better so that we can
3 make sure that these opportunities happen?

4 JIM CLANCY: I would say this:

5 I think we now, with the spotlight, after
6 what has happened in the last 18 months -- right? --
7 the spotlight is on health care.

8 SENATOR SERINO: Yes.

9 JIM CLANCY: And the opportunities that will
10 exist, and do exist, in health care is going to be
11 the responsibility of everybody in this room, and
12 part of, you know, the government, to ensure that
13 it's trumpeted, that there are opportunities.

14 SENATOR SERINO: Okay. Great.

15 We need to work on that.

16 And, Lisa, I just have a question, with the
17 assisted living.

18 You know, I've been -- I'm always talking
19 about SSI. It's so frustrating, it's
20 unconscionable, you know, what we pay is really
21 horrible.

22 And I actually have legislation to raise that
23 rate.

24 And I will work with any legislator to get
25 that passed, so we do that pay rate they need so

1 desperately.

2 So thank you so much.

3 Appreciate all your testimony.

4 LISA NEWCOMB: Thank you.

5 You've always been so supportive, as have
6 many of you.

7 And the legislature actually did pass an
8 increase a few years back, and it was,
9 unfortunately, vetoed by the governor.

10 You know, the cost is \$100 million. And
11 I guess, you know, the 50,000, you know, seniors in
12 assisted living, I guess -- you know, I guess it
13 just wasn't a priority at that time.

14 SENATOR SERINO: Our seniors get left in the
15 dust. Right? It's not fair.

16 LISA NEWCOMB: And many have closed since.

17 SENATOR SERINO: Yeah, absolutely.

18 He is becoming a senior very quickly himself.

19 SENATOR MAY: Senator Borello.

20 SENATOR BORELLO: Thank you, Madam Chair.

21 Again, I would like to give my thanks for
22 you-all being here to discuss this issue.

23 You had mentioned initially -- well, first of
24 all, you mentioned the -- a daily loss of
25 approximately \$64 per patient per day in nursing

1 homes.

2 And then when it comes to assisted living,
3 you mentioned that, according to all of your
4 members, or I believe you said all of your members,
5 that the enhanced unemployment benefit has created a
6 crisis in employment.

7 I was wondering if could you speak to that?

8 I mean, essentially, what you're saying is,
9 is that, so far, our government hasn't done anything
10 to help you, and has done a lot to hurt you. And
11 that is certainly having an impact on the folks that
12 you care for.

13 But I would like to speak a little bit more
14 to those outside forces created by government that
15 is having a negative impact on your ability to
16 deliver services.

17 LISA NEWCOMB: So, are you out Buffalo way?

18 SENATOR BORELLO: Yeah. Western New York,
19 yes.

20 LISA NEWCOMB: Because it's my
21 understanding -- okay.

22 So we have members there, when the minimum
23 wage went up, and they're Medicaid providers that
24 have the assisted-living program, they were already
25 paying over the minimum wage at that time.

1 So they did not get a Medicaid add-on. So
2 they were, kind of, sort of, punished for, you know,
3 having done the right thing.

4 So they do -- you know, they are paying well
5 because they have to and -- and they want to, and
6 they have to.

7 But they, you know, have gotten, you know, no
8 support.

9 And, right now, the benefits that are coming
10 in from government, you know, exceed what they can
11 afford to pay in some cases.

12 And, you know, just as an anecdotal story,
13 but a member told me that, in the North Country,
14 like Plattsburgh way, somebody actually told them
15 that, you know, to leave her house, that she needs
16 \$23 an hour.

17 And they just cannot -- they just cannot
18 afford that.

19 Remember that, you know, for most facilities,
20 that that means that you're passing it on along to
21 the resident who has a fixed income.

22 You know, and so something's got to give at
23 some point.

24 SENATOR BORELLO: Well, in New York State, we
25 took out \$100 million out of -- during COVID, with a

1 1.5 percent cut to reimbursements.

2 So I would imagine that's had a negative
3 impact.

4 Now, if you can speak a little bit to that,
5 that, during COVID, when we were trying to do our
6 best to take care of our most vulnerable citizens,
7 the governor decided to cut \$100 million out of
8 reimbursements.

9 JIM CLANCY: Yeah, and, you know, I did
10 highlight that. That was part of the previous
11 year's budget negotiations.

12 So, sure, that hurts. Right?

13 And understand how we are where we are, why
14 we are where we are, today with Medicaid spending.

15 It's -- it's -- the program becomes more and
16 more robust, it's broader services to be covered,
17 which is a good thing. Right? We want as many
18 services, and as many people to receive those
19 services, as possible.

20 But those increased services have not been
21 coming with an increased dollar attached to it.

22 So that's the conversation that I hope we
23 will all be having with the administration, and with
24 your colleagues in the other House, to start to
25 right that ship.

1 SENATOR BORELLO: I don't know how much time
2 I have left here, I can't see the clock, but, you
3 know, we saw mandates for you to have to do testing,
4 that were not reimbursed; PPE that was not provided;
5 and all the other mandates during the pandemic.

6 Can you just speak to the overall damage that
7 has done to your industry?

8 JIM CLANCY: "Damage" is a good word,
9 I guess.

10 I would just say, the stresses -- everyone
11 just stepped up and did what they had to do. Right?

12 Put the checkbook aside, put the accounting
13 ledger aside, and did what they had to do, and said,
14 We will figure this out.

15 And now we're at that "We have to figure this
16 out" stage. Right?

17 Nursing homes, let's be very clear --
18 right? -- as I also said in my testimony, you know,
19 before the pandemic, nursing homes were working at a
20 negative margin. Right?

21 So anything to hit that bottom line certainly
22 exasperated that.

23 "Unfunded mandates," I mean, that's a word
24 that you hear. You must hear that so many times in
25 a year -- right? -- from not just us, but from

1 everybody else in other hearings. Right?

2 They're hard.

3 They're hard.

4 And that's why we're -- we have hearings like
5 this, so that we can bring that to light, and ensure
6 that we're having those conversations.

7 SENATOR BORELLO: Well, we already have loss
8 of beds in Western New York, particularly in rural
9 areas of New York State.

10 So do you, I guess, foresee more closures?

11 I believe there were two more closures
12 recently, and a third bankruptcy somewhere on
13 Long Island.

14 So do you see more loss of beds?

15 Because it's going to be a critical issue for
16 us, as we continue to have people aging and needing
17 more services, but there's a lack of beds, at least
18 in our area.

19 JIM CLANCY: I do.

20 SENATOR BORELLO: Okay.

21 Thank you.

22 SENATOR MAY: And Senator Oberacker.

23 SENATOR OBERACKER: It's kind of weird when
24 you talk and you don't hear yourself coming back.

25 So, thank you, Madam Chair.

1 And I want to thank each and every one of
2 you, too, for your testimony, to help educate this
3 senator on the issues that are out there.

4 You know, as a businessman -- and our
5 business is a lot with product development and, you
6 know, the creative ideas that have come out -- and
7 one of the things that just struck me is that this
8 business is so heavily reliant upon people --
9 right? -- to do the jobs that are out there.

10 And so just one of the ideas that I had is,
11 is there any chance, or has there been any thought
12 given, to potentially, automation, that would help
13 in some of the mundane type of tasks that are out
14 there now?

15 I don't want this to sound insensitive, or
16 anything, because I think the business that we're in
17 is very personable, and that personable touch is so
18 important.

19 I'm just trying to think, out of, you know,
20 again, the creative side of things, you know, if you
21 were to have some sort of -- look at the box stores,
22 look at Walmart. I mean, they're doing their
23 self-checkouts, and things of that nature.

24 So they've kind of, you know, taken some of
25 that automation idea to help out with this.

1 So I just throw that out as kind of a
2 question: Is there, or could there be, some thought
3 process given to that, to kind of help with the
4 shortage?

5 LISA NEWCOMB: I was approached by a company
6 just last month, that has, basically, robots that
7 can deliver meals.

8 You know, so I, you know, don't have an
9 opinion about that quite yet, one way or the other.

10 But I -- you know, I told them I wanted to
11 look at it.

12 So we are, you know, scheduled to do that.

13 We automate as much as we can, but, like you
14 said, it is a people industry.

15 My daughter, when she was in college, worked
16 in dining in assisted living, and she really became
17 very attached.

18 And she would come home and she would say,
19 "There's this boy, and he likes this girl." And I'm
20 thinking she's talking about the staff, "boy and
21 girl."

22 And she's talking about the residents.

23 So, you know, it really is a people thing,
24 but we do what we can when it comes to automating.

25 SENATOR OBERACKER: And, again, it was kind

1 interesting that, my mother-in-law, who was in an
2 assisted living, and I remember them coming around
3 and having a sheet of paper for her meals. And it
4 was more difficult for her to work off of a sheet of
5 paper than if there was a picture of the actual meal
6 that could be, you know, given, if you will.

7 So just something along those lines.

8 And the other thing I bring up, as an EMS
9 provider in my local emergency squad, and we are
10 running through the same issues I think that you
11 are, where we don't have enough members, you know,
12 right now we are looking at getting a -- literally,
13 a machine that will perform mechanical CPR.

14 It's a whole nother individual for any of
15 these, you know, calls that we're on.

16 So I just throw that out, again.

17 I think it's something, as we move forward,
18 it would be really worth looking at.

19 DORA FISHER: Several of our members have
20 utilized smart technology to, you know, monitor
21 patients remotely.

22 And it is really fantastic to see these
23 creative innovations. And it also highlights why
24 nursing homes need that kind of flexibility to be
25 able to pay for things like this.

1 But I do want to emphasize that this is still
2 a high-touch human field. And there are limits to
3 what technology can replace in this field.

4 SENATOR OBERACKER: Thank you.

5 DORA FISHER: Thanks.

6 SENATOR MAY: All right.

7 I think that's everyone.

8 I just wanted to come back and say one --

9 Oh, Senator Mayer. Sorry.

10 SENATOR MAYER: Thank you.

11 And, first of all, thank you, to you and your
12 staffs, and your institutions, for what you did
13 during the last 18 months.

14 And I think for all of us here, we dealt with
15 family members of folks that were in your places, as
16 well as family members and staff that work there.

17 So one question I had, and I don't think you
18 dealt with this: For each of these sectors, the
19 number of workers who either died from COVID or
20 became seriously ill, do you know that number?

21 JIM CLANCY: I don't.

22 LISA NEWCOMB: I do not.

23 I don't think -- you know, I don't know that
24 that's publicly available, to my knowledge.

25 SENATOR MAYER: But have you --

1 LISA NEWCOMB: I mean, it would be -- it
2 would have been reported to the department, I think.

3 SENATOR MAYER: I just wondered, as -- as
4 organizations, whether you know the scope of death
5 or serious illness of workers in your facilities
6 during the last 18 months?

7 LISA NEWCOMB: I have only heard of a few.

8 JIM CLANCY: Yeah, I wouldn't have that data,
9 Senator. But can I certainly go back, check, find
10 out, if we have that, and let you know.

11 SENATOR MAYER: Well, I just think for us, as
12 we represent both, as I say, the families of these
13 patients, and the families of these workers.

14 And I know for me, and I would think for many
15 of my colleagues, the workers in these places are
16 largely the women in our districts, who are taking
17 the bus, and/or don't have a car, and may not have
18 health insurance, and also have childcare
19 responsibilities, as my colleagues mentioned.

20 And I think it would be helpful to know the
21 burden that was placed on them, either by death or
22 serious illness as a result of COVID, because they
23 made an extraordinary sacrifice.

24 So I think that would be helpful.

25 Second is, for those that work in your

1 facilities, I know it depends on whether the union,
2 how many facilities provide health insurance to the
3 employees, either in assisted living or in nursing
4 homes?

5 LISA NEWCOMB: I don't know that. I don't --
6 I'm sorry. I don't have the answer for assisted
7 living.

8 JIM CLANCY: No. Senator, again, I don't
9 have that information with me. But, again, we
10 will --

11 SENATOR MAYER: Well, again, I think for --
12 from at least my point of view, for these workers,
13 the ability to have health insurance, particularly
14 given what we've been through, this is the moment to
15 reevaluate the failure to provide health insurance.

16 I understand the finances of it, but we're
17 asking people to make extraordinary and personal
18 sacrifice. And I think that ought to be part of the
19 conversation.

20 I would urge you to make sure, as we go
21 forward next year, that those -- both the pain that
22 they suffered, as well as their health insurance
23 needs, going forward, are part of the conversation,
24 as well as in your advocacy, because I think they
25 deserve that.

1 So I would just urge that you do that.

2 JIM CLANCY: Thank you, Senator.

3 SENATOR MAYER: Thank you.

4 SENATOR MAY: All right. I'm going to take
5 my privilege as chair, and ask just a couple of
6 follow-up questions, because -- especially after
7 what Senator Mayer asked.

8 I know we've heard a lot about enhanced
9 unemployment benefits as a reason people aren't
10 going back to work.

11 But the evidence seems to be that it's lack
12 of childcare, lack of other kinds of supports, and
13 fear of infection.

14 And so the question about, vaccination,
15 I know vaccination rates are low among staff at a
16 lot of your facilities.

17 And we're hearing, around the country, there
18 are efforts to require vaccination, or regular
19 testing of employees.

20 What are you thinking on that score?

21 LISA NEWCOMB: So for assisted living,
22 74 percent of our staff, currently. I mean, you
23 know, it is inching up. You know, I want it to be
24 100.

25 Some of our companies, very early on, did

1 mandate it. And I think more are considering it at
2 this point, especially because, you know, when you
3 have unvaccinated staff, you know, the community
4 can't open up the way that it could if everyone were
5 vaccinated.

6 But, of course, there's also that fear that,
7 if you mandate it, that you're losing people when
8 you really can't, you know, afford to lose one other
9 worker.

10 So, you know, I certainly, you know, support
11 any -- any of our members that mandate it; but, you
12 know, there's that risk.

13 JIM CLANCY: And almost identical, I would
14 say, we do spend a lot of time working with our
15 members to help combat the hesitancy within their
16 workforce; to ensure that they really feel that it's
17 safe, and the right thing to do.

18 But those that will mandate it, we will
19 support their membership, and help them to do that.

20 But those that don't, for the obvious reasons
21 outlined, the flexibility needs to be -- you know,
22 needs to be part of that conversation as well.

23 SENATOR MAY: Okay. Thank you.

24 Meghan, I don't know if you wanted to say
25 anything about this, too, with vaccination with

1 home care workers.

2 I apologize that you've sort of been left out
3 of the conversation here. But the morning is mostly
4 devoted to nursing care, so that was why.

5 MEGHAN PARKER: Yeah, I know, I understand.

6 And I'm sure my colleagues will all get to
7 answer questions on the topic I spoke on earlier.

8 So we advocate for consumers. And I know
9 that there are many people with, you know, serious
10 conditions. People who are, have suppressed immune
11 systems, who, you know, don't feel safe, having home
12 care workers come into their homes if they're not
13 vaccinated.

14 And so I think that, on the consumer side,
15 which is where, you know, I fall, that, you know,
16 mandating vaccines would make people feel much more
17 comfortable and make people much safer.

18 SENATOR MAY: Thanks.

19 And then my last comment: I want to come
20 back to this 94 percent turnover rate.

21 Only 6 percent of your employees actually
22 stay more than a year?

23 Is that what you're saying? Because that --

24 JIM CLANCY: That was, again, [simultaneous
25 talking; indiscernible] --

1 SENATOR MAY: -- was a shocking number.

2 JIM CLANCY: -- based on 2017-2018 numbers,
3 that was the turnover rate.

4 SENATOR RAMOS: But the retention was more
5 than a year?

6 JIM CLANCY: You know what? That's a good
7 question. And let me find that out.

8 I'm not sure I highlight that in my
9 testimony. But I will let you know over what that
10 time period is. Okay?

11 SENATOR MAY: That would be helpful, because
12 that is a shocking number, and an indication of a
13 totally failed business model, an employment model,
14 that absolutely needs to be rethought from the
15 bottom up.

16 DORA FISHER: And to clarify on the
17 statistic, it includes -- it's an average. Right?
18 So it includes turnover rates that exceed
19 100 percent. You know, when you have -- and it
20 includes staff people that turn over three or
21 four times in a year.

22 So it's not to say that 6 percent of the
23 staff stays on every year. It's about -- it's
24 about, especially at the lower level, the people who
25 come in and out every three or four months.

1 SENATOR MAY: Okay.

2 Well, it would be nice to get a little more
3 granular detail about where that number comes from.

4 JIM CLANCY: Absolutely.

5 SENATOR MAY: Thank you.

6 Thank you, all.

7 JIM CLANCY: Thank you.

8 LISA NEWCOMB: Thank you.

9 SENATOR MAY: I really appreciate your work,
10 and your testimony today.

11 And we'll move on to the next panel, which is
12 Stephen Hanse, Tarrah Quinlan, and Lisa Volk.

13 All right, Mr. Hanse.

14 STEPHEN B. HANSE: Good morning.

15 My name is Stephen Hanse, and I have the
16 privilege of serving as president and CEO of the
17 New York State Health Facility Association, and the
18 New York State Center for Assisted Living, a
19 statewide organization representing over 450 skilled
20 nursing and assisted-living facilities throughout
21 the state, who are both proprietary, not-for-profit,
22 and government-sponsored facilities.

23 Prior to the onset of the COVID pandemic,
24 New York was experiencing a significant
25 long-term-care workforce crisis.

1 We were meeting with the commissioner of
2 health, folks on the second floor, to address this
3 issue.

4 Then we had the onset of the COVID-19
5 pandemic which only exacerbated this workforce
6 shortage.

7 We saw our workers become ill.

8 We saw workers, for the first time ever, have
9 to leave work, to stay home and care for their
10 children as a consequence of schools closing.

11 Now we continue to fight through this
12 pandemic, and we are sitting here discussing the
13 workforce issue.

14 And as we heard during the first panel,
15 I think it's clear that the issues of workforce and
16 reimbursement, more particularly Medicaid
17 reimbursement, are inextricably linked.

18 You heard that New York has a
19 \$56-per-patient-per-day shortfall, and what that is
20 is the statewide data. It costs \$265 per patient
21 per day to provide care for a Medicaid patient.

22 About 77 percent of all nursing home
23 residents in the state of New York are Medicaid
24 patients.

25 So when you back out that \$64, you're left

1 with \$8.37 per hour paid by the state of New York
2 for Medicaid care for our most vulnerable men and
3 women in nursing homes.

4 So as we look at the issue of staffing, and
5 we have staffing mandates, we all would love to hire
6 as much staff as we could.

7 I was recently speaking to an administrator
8 of one of our buildings, who said, "If a bus full of
9 nurses showed up tomorrow, I would hire them sight
10 unseen; just, we would hire them all."

11 So we need to address the workforce crisis,
12 we need to address the reimbursement, and make them
13 work together. We can't deal with these issues in
14 silos.

15 It's been over 12 years since Medicaid has
16 been increased for the cost of living in the state
17 of New York.

18 So we need to address that.

19 In this past budget, it looks like
20 \$64 million was allocated for workforce. And my
21 understanding, that \$64 million was for the fourth
22 quarter of this fiscal year.

23 And I just want to get some clarity on that
24 because, if that's the State's share, and that
25 becomes \$128 million, then there seems to be a level

1 of commitment to addressing workforce.

2 And we would stand here today, to say, any
3 increase in the Medicaid rate for long-term care in
4 New York, you can allocate 100 percent of that
5 increase to staff.

6 We would fully support that. We would work
7 with our partners and organized labor to bring that
8 to you.

9 And when management and labor supports
10 something, it makes your life easier.

11 So we would fully support that.

12 So with those issues, there are issues that
13 we need to do to recruit and retain workers, and
14 stop losing our workers, the limited workers we do,
15 to hospital systems and other providers on the
16 health-care continuum who can continue to pay more.

17 So with that, we would like to present to
18 you, in addition to the real need to increase the
19 Medicaid rate, real concrete proposals that can be
20 implemented now with the legislature, and working
21 with the state agencies in regulatory capacity, to
22 recruit and retain workers.

23 And with that, I would like to introduce my
24 colleague Lisa Volk.

25 LISA VOLK: Good morning, everyone.

1 So my name is Lisa Volk. I am the director
2 of clinical and quality services for NYSHFA.

3 My background: I'm an RN, and a licensed
4 nursing home administrator. So I've been many years
5 in operations of facilities.

6 There's a couple of key areas that we are
7 looking at when we talk about workforce.

8 Number one being the TNA program/the
9 temporary nurse aide training program that was
10 utilized throughout the state to help supplement the
11 nursing home staff.

12 Currently, the Department of Health just did
13 a survey that indicated 1,322 temporary nurse aides
14 are being utilized in the facility.

15 This is a big program that they're using.

16 What we would like to do is extend the waiver
17 on that program.

18 We also are currently working with the
19 Department of Health to develop a bridge program
20 that will accept some of the hours worked by the
21 temporary nurse aide employees as their clinical
22 hours for the 100-hour course.

23 We also would like to align with the federal
24 guidelines as far as the hours of 75, versus 100 in
25 New York State.

1 So those are some really big, key issues that
2 we believe -- I mean, these are your frontline
3 staff.

4 This is very, very much so needed.

5 Before I turn it over to Tarrah, my
6 colleague, I had one other thing I wanted to talk to
7 you about, is the nursing home administrators.

8 And Dora said earlier, she's on the phone a
9 lot with the nursing home administrators, as am I,
10 and certainly can empathize with where they're at.

11 But there's a lot of these nursing home
12 administrators leaving the industry, by way of
13 retirement, by way of leaving the industry
14 completely, by leaving the state, and that's very
15 concerning to me.

16 And I think there's a way that we can work
17 with the Board of Nursing Home Examiners, to see if
18 we can open up more of the qualifying field
19 experience.

20 Stephen and I have worked with nursing home
21 administrators some years ago, that actually had
22 some awesome experience, and was very qualified.
23 But because they were not an administrator on
24 record, their experience was not taken into account.
25 They were more of a regional.

1 And this is an administrator that had control
2 kind of over a special focus facility.

3 So I think there's things that we can do.

4 So those are two of the key areas.

5 But I'll turn it over to Tarrah, and she's
6 going to talk more about the med tech and the
7 nurses.

8 Tarrah.

9 TARRAH QUINLAN: Thank you, Lisa.

10 Can you hear me okay?

11 Okay.

12 My name is Tarrah Quinlan.

13 SENATOR MAY: Actually, I'm not sure that's
14 on.

15 STEPHEN B. HANSE: You're not on.

16 TARRAH QUINLAN: My name is Tarrah Quinlan.
17 I'm the director of education program development
18 and member operations for NYSHFA and NYSCAL.

19 I've been working in long-term care since
20 I was 16 years old.

21 I'm a registered nurse.

22 I started working in the nursing home in
23 dietary.

24 I have since was a nursing home surveyor.

25 And my last position was with the New York

1 State Department of Health, as the director of the
2 quality assurance bureau of the surveillance of
3 nursing homes.

4 So I have been working in long-term care a
5 long time. I understand the shortages of staff and
6 what needs to be done to assist that.

7 So my first proposal I'm going to talk about
8 is creating the medication technician position
9 within a nursing home; allowing the ability to train
10 medication techs, and test their competencies within
11 skilled nursing facilities, to assist with
12 lower-level medication administration.

13 They would be under the supervision of the
14 registered nurse.

15 This would allow the nurses more time to
16 provide hands-on care to the residents. And it
17 would also, with further changes to regulation,
18 allow these medication technicians to be a part of
19 the direct-care staff in the nursing home.

20 Another proposal is changes with the
21 New York State education licensing requirements.

22 So during the pandemic we had an executive
23 order, to allow nurses across the United States and
24 in Canada, their license was in good standing, to
25 work within New York.

1 And I know a lot of nursing homes that
2 I spoke to were utilizing that, especially around
3 the states that are around us. That was a big
4 supplementation of staff.

5 To be part of the nurse licensure compact
6 would allow nurses to have one multistate license,
7 and the ability to practice in their home state or
8 neighboring states or other states.

9 That would also supplement the workforce.

10 And I just wanted to quickly talk about, as
11 it was mentioned in the previous testimony, the
12 daily HERDS survey, you know, just some thoughts on
13 that.

14 Those are your direct-care staff doing that.
15 Directors of nursing, infection preventionists, they
16 are taken away from the direct care of those
17 residents every single day.

18 I understand the need for data collection, of
19 course; however, for that to continue every single
20 day, seven days a week, with no relief, is not
21 necessary.

22 That's in addition to a weekly testing survey
23 that they have to do every Wednesday; and also in
24 addition to several supplemental surveys that the
25 Department of Health just sends out randomly

1 throughout the year.

2 So to not have to do that on a daily basis;
3 even to not do it at all.

4 All of this information is now reported to
5 the federal government and NHSN, so it's really not
6 needed.

7 So those are just some other points that
8 I think would help.

9 STEPHEN B. HANSE: So when you take together,
10 the issues of reimbursement, and real, practical
11 initiatives to bring, to recruit and retain,
12 workers, there are -- there is a pathway to address
13 the concerns in long-term care.

14 They're real, focused initiatives that can be
15 implemented in partnership with the legislature and
16 with the governor.

17 And we thank you for your time and for your
18 focus on this critical issue.

19 SENATOR MAY: Okay. Thank you so much.

20 Let me ask a couple of follow-up questions
21 about the HERDS survey -- actually, I've forgotten
22 what my question was on that.

23 So let me ask a different one.

24 One of the things I've worked on a lot in the
25 last year is visitation in nursing homes, and trying

1 to facilitate opening the doors to more family
2 members or loved ones to be able to visit.

3 And I often hear that the big issue is
4 staffing in that.

5 So can you explain what the staffing
6 requirements are for something like that; for
7 bringing visitors, allowing visitors, into a
8 resident's room, say.

9 LISA VOLK: So under the current guidelines,
10 they talk about core infection-control principles.
11 And within those core infection-control principles,
12 you have to maintain the PPE, the social distancing,
13 et cetera.

14 So there needs to be enough staff to kind of
15 supervise that, because they're held accountable for
16 maintaining that as a part of the guidelines for --
17 you know, through the New York State Health
18 Department.

19 So that's -- that's a piece of that; they
20 have to take that into consideration, what do they
21 have as far as, you know, that staff to do those
22 visitations?

23 It's not just kind of opening the door and
24 letting everybody in.

25 They really have to look at, what they have

1 available to look at, you know, maintaining those
2 core principles.

3 SENATOR MAY: Okay. So, just in the interest
4 of time, if we were not in a pandemic situation, if
5 you can strip away all of those kinds of
6 requirements, is there a significant staffing
7 requirement to allowing visitation in nursing homes
8 just in ordinary times?

9 LISA VOLK: Well, in general, there's always
10 some level of supervision when it comes to
11 visitation.

12 You want to make sure things are going okay,
13 and your residents are safe, because there are, you
14 know, times that you do have to intervene.

15 But they certainly are less stringent not in
16 the middle of a pandemic.

17 SENATOR MAY: Okay. Thank you.

18 I wanted to follow up on one of your very
19 first statements, Mr. Hanse, where you said, "For
20 the first time ever, we are finding our staff having
21 to leave work and take" -- "to take care of their
22 children."

23 Now, I get it; if schools are closed, it's
24 sort of a mass event. But I imagine that happens
25 all the time, and has happened for years and years

1 and years.

2 And I just want to follow up on the
3 discussion from the previous panel, about the need
4 for things like childcare on-site as a way to really
5 support these workers who are giving everything to
6 your residents, and then, you know, their own
7 families are losing out.

8 So I wonder if you had thoughts, or any of
9 you had thoughts, on that discussion that we had
10 before.

11 STEPHEN B. HANSE: Sure.

12 And, Senator Ramos and Senator Benjamin, it's
13 a real issue, it's a significant issue.

14 And what we saw prior to the onset of the
15 pandemic, or the regulatory paradigm to establish a
16 childcare center in your workforce, there are
17 significant hurdles, especially in health care.

18 So those regulatory issues.

19 And what we're dealing with are various
20 agencies, and this is also with the workforce in
21 terms of the Education Department, that don't really
22 work in partnership.

23 And they say, This is the reg, and you can't
24 do this.

25 What we did see in the pandemic, to encourage

1 our workers to come to work in this very trying
2 time, we did have -- given the context of the state
3 of emergency, various regulations were waived.

4 So we were able to establish certain
5 childcare facilities, temporary, based under the
6 auspices of the pandemic and the emergency -- the
7 declaration of the state of emergency.

8 Those -- now that that's over, those -- all
9 the applicable regulations are back in place right
10 now.

11 But we had several of our members do that,
12 try to do that, and it worked.

13 You had to find a location, but you also had
14 to find appropriate and qualified staff for
15 childcare, which has its separate employment issues,
16 because you need qualified individuals who those
17 parents can trust with their children, as they go to
18 work. And the location of the childcare needs to be
19 very close, if not within the building. And then we
20 have very significant restrictions in terms of the
21 utilization of the building.

22 So, again, after -- you've heard it said
23 anecdotally, but it really is the truth: After
24 nuclear power, there is no more heavily regulated
25 industry than nursing homes.

1 It's the truth.

2 And when you really peel back the onion and
3 you see what we have to do:

4 Okay, we want to dedicate this wing of our
5 nursing home to childcare.

6 It's not that easy.

7 Okay, we can hire someone to do it. Have
8 them come in.

9 No, it doesn't work that way with the
10 Department of Health, with the Office of Children
11 and Family. There's all these hurdles.

12 So I think if there was a legislative
13 initiative to address some of these, that could
14 help.

15 SENATOR MAY: Okay. Thank you.

16 Anyone else?

17 SENATOR BENJAMIN: I'll be brief, I'll be
18 brief.

19 SENATOR MAY: Okay.

20 SENATOR BENJAMIN: I definitely -- you know,
21 I heard Senator Ramos mention, so I definitely want
22 to follow up on some of the regulatory issues around
23 childcare, because it just seems logical that you're
24 in the living business, children -- having spaces
25 for children to be there.

1 Because I think, a career pipeline,
2 childcare, making sure people are safe from any
3 diseases, like obviously COVID, and working
4 conditions, I mean, those things coming together
5 I think will definitely help with this -- with this
6 workforce-retention issue.

7 To that point, can you talk a little bit
8 about, sort of, the length -- the typical length of
9 a work shift for someone working in one of your
10 member's facilities?

11 LISA VOLK: I think that varies on a lot
12 of -- there's a lot of variables in that, in
13 answering that question.

14 It all --

15 SENATOR BENJAMIN: [Simultaneous talking;
16 indiscernible] I'm sorry. I [indiscernible] cut you
17 off.

18 Let me ask the -- being that there are
19 shortages, you have staffing issues, I have to
20 imagine there are people working very long shifts in
21 some cases.

22 You know, help us think through the
23 implications of that.

24 How long could one person be working on a
25 shift, for example, et cetera?

1 LISA VOLK: Yeah, I mean, you know, a double
2 shift would be considered 16 hours, and you wouldn't
3 go anything over that 16 hours.

4 A lot of facilities will staff on 12-hour
5 basis, and do, like, you know, so many days on and
6 so many days off.

7 It all depends on what the facility's needs
8 are.

9 I also think that you have to take into
10 consideration, when people are working overtime,
11 making sure they have some time off after working
12 some overtime. And then that is also a challenge.

13 So it's not like just a kind of cut-and-dry
14 answer.

15 You know, some facilities, their work hours
16 are 7.5, some are 8.

17 But a double shift is 16, and normally, you
18 know, it's 12 hours in between.

19 SENATOR BENJAMIN: Got you.

20 TARRAH QUINLAN: And I would just add, you
21 know, myself being an RN and working in these
22 facilities, even, you know, this crisis and staffing
23 is nothing new.

24 And when I was working, it wasn't during a
25 pandemic. And I often found myself as a

1 3-to-11 supervisor, covering also that
2 11-to-7 shift.

3 That was an often, probably a few times a
4 month, occurrence.

5 STEPHEN B. HANSE: And when you go back to
6 the SUNY Center for Workforce Studies, and the
7 School of Public Health, and you look at their data
8 reported on a regional basis throughout the state of
9 New York, the shortages throughout the various
10 classifications in health care are there pre-COVID.
11 They're going to be there post-COVID.

12 Again, it goes back to the issue that we've
13 never -- the State has never really dealt with the
14 issue.

15 And then we heard on the earlier testimony,
16 in terms of the reimbursement.

17 And, unfortunately, the State of New York was
18 the only state to cut Medicaid during a pandemic.

19 So you had that.

20 And then, on top of that, the federal
21 government provided additional funding for states,
22 temporary relief, to deal with the various
23 mandates -- the PPE; to pay higher pay, "Hero Pay,"
24 it was called -- to encourage workers to come to
25 work.

1 So the states were allocated that money from
2 the federal government.

3 New York is one of only five states that
4 refused to allocate any of those money to health
5 care.

6 So I think, when we look at the issues, we
7 really need to, again, look at them in the context
8 of the workforce and the reimbursement; they are
9 inextricably linked.

10 SENATOR BENJAMIN: Sure.

11 One last question: Do any of your members
12 have sort of a predictable career trajectory for
13 nursing assistants?

14 I guess I'm -- you know, when I went to
15 business school, when I graduated, I knew if I went
16 to work at "X" place, you know, for these three
17 years, if I do my job, I'll go -- I'll be an
18 associate, and then I can be a vice president,
19 et cetera, et cetera.

20 And so, you know, when you're working around
21 the clock, killing yourself, you know, you might
22 say, Oh, I can quit.

23 Oh, wait a minute.

24 You know, there's a -- there's something that
25 I'm a part of; there's a trajectory, there's a

1 career path.

2 I guess, you know, it -- is that -- is
3 that -- is that happening anywhere within your
4 members?

5 LISA VOLK: It does.

6 SENATOR BENJAMIN: Okay.

7 LISA VOLK: It does.

8 And I can speak to it because the facilities
9 that I was a part of, from an operations standpoint,
10 even myself, I started as an LPN.

11 I really had to do, like, the background work
12 as to, what I had to do to become an RN, and what
13 would be accepted. But I did take advantage of the
14 tuition reimbursement offered through the facility,
15 and then went back to become the nursing home
16 administrator.

17 So there were some mechanisms in place that
18 I could take advantage of; however, in particular,
19 in the facilities that I covered, we had something
20 called the "ACNA" program, which meant it was
21 additional training for the CNAs who maybe didn't
22 want to go and be an LPN, but really wanted a little
23 bump up in some way; so additional training, some
24 duties.

25 Tarrah spoke about the med tech.

1 One of the things that we feel, is allow the
2 nurses to get back to being nurses.

3 Let the CNAs who want a little extra level
4 up, train them to be the med techs. And, you know,
5 studies have shown that they have had really good
6 success with this.

7 So I think these are some of the things that
8 we need to look at, like, overall.

9 But, to your point, you know, always, tuition
10 reimbursement. I mean, I was the recipient of a
11 scholarship through our association, that helped me
12 buy books.

13 And, I mean -- so those things are really
14 important, and just really pushing the nursing homes
15 to kind of do those things.

16 We offer that training program on a
17 train-the-trainer basis.

18 And there's lot of facilities that have taken
19 advantage of that.

20 So there are things available.

21 There are things available.

22 SENATOR MAY: I need to break in here
23 because --

24 SENATOR BENJAMIN: Oh. I'm finished up.

25 SENATOR MAY: Senator Rivera, did you want to

1 say anything?

2 SENATOR RIVERA: Hey, folks. I'll be brief.

3 I'm looking through your testimony, and there
4 are a couple of recommendations that you folks make.

5 And I just wanted to understand -- as you
6 know, there are so many acronyms that are always
7 thrown around. I just want to make sure that
8 I understand some of them here, and particularly
9 related to the Medicaid -- medication tech program.

10 Obviously, "CNA" is certified nurse
11 assistant.

12 But, "SNF"?

13 LISA VOLK: Skilled nursing.

14 STEPHEN B. HANSE: Skilled nursing.

15 SENATOR RIVERA: Skilled nursing...

16 SENATOR MAY: ... facility.

17 STEPHEN B. HANSE: I'm a med tech.

18 New York State presently permits those in
19 assisted-living facilities.

20 For some reason they don't in skilled nursing
21 facilities.

22 SENATOR RIVERA: Right. So I want to
23 understand that particular proposal a little bit
24 better.

25 So what is the -- could you break down what

1 that particular proposal would be, as in, what are
2 the changes that you propose as a recommendation to
3 us?

4 TARRAH QUINLAN: Right, right.

5 So we would propose that -- the ability to
6 train.

7 There is already a training program for med
8 techs established. So allowing them to take that
9 program, and then utilize it in skilled nursing.

10 It would require state legislative and
11 New York State Education Department changing
12 education law and public health law.

13 SENATOR RIVERA: And this would be -- the
14 change would be -- what would be the change,
15 exactly, that you would be proposing?

16 So you're saying it exists in another
17 setting?

18 TARRAH QUINLAN: They -- they're not allowed
19 currently in a nursing home. Just nurses are
20 allowed to give medications.

21 So it would have to be written, to allow
22 medication technicians, who are properly trained and
23 certified, to then also administer within the
24 nursing home.

25 SENATOR RIVERA: Okay.

1 STEPHEN B. HANSE: And you'll see, attached
2 to the testimony, we have a chart with the
3 recommendations.

4 And that actually -- yep, you got it,
5 Senator.

6 That speaks to the regs. That speaks to --
7 that bill was a bill introduced several years ago.
8 That's not a 2021.

9 SENATOR RIVERA: And did you get this to us
10 electronically as well?

11 STEPHEN B. HANSE: I'm sorry?

12 SENATOR RIVERA: Did you get this to us
13 electronically as well?

14 STEPHEN B. HANSE: No. But I'm happy to do
15 so.

16 SENATOR RIVERA: You can share with us
17 electronically?

18 STEPHEN B. HANSE: Sure.

19 SENATOR RIVERA: I'd appreciate that.

20 STEPHEN B. HANSE: Absolutely.

21 SENATOR RIVERA: Thank you, Madam Chair.

22 SENATOR MAY: Anyone else?

23 Senator Borello.

24 SENATOR BORELLO: Thank you.

25 And thank you-all for being here today.

1 I want to talk a little bit more about the
2 HERDS reporting.

3 I mean, obviously, we're talking about
4 workforce. We're talking about hours spent with --
5 you know, with your residents.

6 And I know this is something that's been
7 around for a while, but it's my understanding this
8 was switched to a daily reporting during the
9 pandemic. And it's still a daily reporting burden.

10 So can you just, I guess, being that you are
11 in the industry, and you know what it was like
12 before, how can -- how can -- what would be best to
13 do so it doesn't burden you so much, but the data is
14 still there?

15 LISA VOLK: Tarrah talked a little bit about
16 this.

17 Some of the data that's reported already in
18 the daily HERDS survey is being reported at a
19 federal level.

20 So it's about kind of sharing that data, that
21 would be number one.

22 Number two, they don't need to do this for
23 seven days a week. I mean, no one has a weekend off
24 anymore.

25 I mean, we have discussions with

1 administrators and directors of nurses, saying,
2 Now, I can't do anything after -- you know, until
3 1:00, you know, because I have to have this
4 submitted.

5 I mean, their families are on hold.

6 I mean, it's -- at this point, we could
7 reduce it. The rates have come down. And we
8 certainly could reduce that to even something during
9 the week, and not involving the weekends.

10 They've been through a lot.

11 And to continue to do this, I mean, it's not
12 warranted at this point.

13 SENATOR BORELLO: What was it prior to the
14 pandemic? I mean, how frequently did they have to
15 report this information? And was it more -- is it
16 more detailed now?

17 I think people need to understand what a
18 burden this really is.

19 TARRAH QUINLAN: Yeah, so, you know, prior to
20 the pandemic -- and they still have to do this now.
21 So, again, we're talking about multiple places,
22 you're reporting the same information.

23 So prior to the pandemic, if there was an
24 infectious disease, you completed what is called a
25 "NORA" report, and you reported that to the Bureau

1 of Communicable Diseases. That makes epidemiology,
2 everyone, aware of the issue. That then gets told
3 to the regulatory people.

4 So, really, the HERDS survey previous to
5 this, you more saw it with coastal storms, that sort
6 of thing, you know, and how they're getting ready to
7 prepare, that sort of thing.

8 I have not seen, you know, at least in my
9 time, working with the department, the HERDS
10 utilized in this way for such a long time.

11 And I just want to say, it's been since March
12 of 2020; so, over -- pretty much a year and a half
13 that, every single day of their lives, they're being
14 taken away.

15 And this is not a short survey, either.

16 This is not a survey that you're answering
17 yes, no, yes, in five minutes.

18 It's a very long survey.

19 And to add on top of that, if you had any
20 technical difficulties, then engaging the
21 department, and getting that fixed.

22 So it is quite time-consuming. And it does
23 take, like I said, this is your DON doing this
24 report, your infection-control nurses; the people
25 who should really be with the residents.

1 You know, I think it gives the impression
2 that paperwork is more important than resident care.

3 SENATOR BORELLO: Well, it is government, so,
4 you know, I'm sure that's the case.

5 STEPHEN B. HANSE: And I would just like to
6 add, what we're seeing, and Tarrah makes a really
7 critical point:

8 These are clinical staff compiling and
9 filling out these surveys. And time and time again,
10 and I have a file full of them, they have to be
11 reported by 1:00 on a daily basis, seven days a
12 week.

13 There's case after case, 1:01, 1:02, where
14 the nurse hit the button, and it's officially late.
15 And the letter that comes from the Department of
16 Health to that facility is extremely threatening.

17 It basically says, we're going to charge you
18 \$2,000; we're going to consider taking away your
19 license.

20 And it's that -- and we respond back.

21 There was a case where a resident -- the
22 nurse was, in almost every case, is providing care
23 to a resident, and we explain that, we can document
24 that; and it's disregarded.

25 You are a minute late. It's \$2,000, and

1 we're going to take a look at your license.

2 It's that type of atmosphere that only
3 exacerbates people wanting to leave.

4 Why do I want to work in this?

5 Here I am, providing all this care in a
6 pandemic. I was providing care to a resident, and
7 this is the thanks I get.

8 So, I mean, it just adds to the myriad of
9 issues our workers are dealing with.

10 SENATOR BORELLO: Thank you.

11 SENATOR MAY: Senator Serino.

12 SENATOR SERINO: Thank you, Senator.

13 And, Lisa, this question is for you.

14 You know, during the pandemic, as you said,
15 the State allowed the workers to come in from out of
16 state during the emergency, just to work
17 temporarily.

18 But -- and I love your idea about the compact
19 licensure. I think that's awesome.

20 But the last I knew, the nursing homes still
21 had not gotten any guidance with regard to those
22 out-of-state employees.

23 Have you heard anything on that?

24 TARRAH QUINLAN: I know at this point they
25 were told they did not have to let them go at this

1 point; that they were working that out.

2 So they still have those nurses present.

3 But it is true, there is not anything
4 formally written, that I'm aware of.

5 LISA VOLK: They did provide to us some
6 mechanisms to check their application status. And
7 we advised those particular individuals to make sure
8 they're sharing that with the facilities, to make
9 sure they can see where they're at in the
10 application process for New York State.

11 But, you know, there was a variety of nurses
12 from different states that came over to help us, and
13 we sure would like to keep them.

14 SENATOR SERINO: Oh, absolutely. And that's
15 why I love that idea.

16 I know I sent a letter to the governor and
17 the Department of Health, asking that question, and
18 many others. And I haven't gotten a response.

19 So I'm glad you got a little bit of a
20 response.

21 But, also, when we talked about the staffing
22 shortage, sort of building off of what Senator May's
23 question, you know, we'll spend a lot of time today
24 talking about that, health-care staff in particular.

25 But are there additional staff that can be

1 brought in to take some things off of the
2 health-care team's shoulders?

3 You know, like, we saw a lot displaced
4 workers, people that worked in hospitality.

5 Are there people that could answer the
6 phones, maybe?

7 You know, that was a big thing -- right? --
8 families were calling constantly.

9 Things like that.

10 Or even to facilitate some visitation.

11 And, you know, I don't know if there's a way
12 to incentivize them, maybe to do that.

13 And, also, we talked about the childcare
14 issues.

15 And one thing I've heard from staff is the
16 transportation issues, and an inability to get to
17 and back from work.

18 Do you experience that in your network?

19 And do you have any suggestions, that -- what
20 we can do on that issue?

21 I guess that's for all of you.

22 LISA VOLK: So there are a variety of things
23 that facilities are doing.

24 We have the paid feeding-assistance program.
25 And so we have people coming in to help feed, which

1 is a critical need during those -- during the hours
2 of meals.

3 And, yes, a lot of them employ, under a
4 different name, ambassadors, or helping hands, to
5 help from the ancillary standpoint, with answering
6 phones, or, potentially, calling families back,
7 et cetera.

8 Extra pair of hands out there.

9 Maybe to help deliver linen to the rooms;
10 something that does not take a skilled level.

11 So there are programs, and facilities are
12 really taking advantage of everything they possibly
13 could take advantage of right now.

14 SENATOR SERINO: So that's already in the
15 works?

16 LISA VOLK: Yes.

17 SENATOR SERINO: That was happening during
18 the pandemic?

19 LISA VOLK: Yep, yep.

20 Yes, yes, yep.

21 SENATOR SERINO: Okay.

22 STEPHEN B. HANSE: As far as the
23 transportation goes, in our rural areas, it is very
24 difficult.

25 We have administrators who I know, and have

1 spoken to, who will drive to pick up staff
2 themselves. And they'll make the rounds in rural
3 counties and communities, to pick up staff who have
4 no access to public transportation; or her car, for
5 that matter.

6 SENATOR SERINO: Yeah, that's a big issue in
7 my area.

8 We have a lot of rural areas, too, throughout
9 the state.

10 So, thank you.

11 SENATOR MAY: All right.

12 Well, thank you very much for your testimony.

13 And we'll be following up on some of the
14 issues that you raised.

15 STEPHEN B. HANSE: Thank you very much.

16 TARRAH QUINLAN: Thank you.

17 SENATOR MAY: Next on our list, we have
18 Gene Hickey, and a late-minute addition of
19 Francine Streich.

20 EUGENE HICKEY: Good morning.

21 My name is Eugene Hickey. I'm the
22 secretary-treasurer for Local 2013 out of Brooklyn,
23 New York.

24 We currently represent about 13,000 members
25 in the five boroughs. 44 percent of our members do

1 come from the health-care industry, so we're very
2 engaged in that.

3 We wanted to share some problems that we're
4 having with a particular employer, Link Homecare.

5 Link Homecare has been a bad actor over the
6 last few years; not coming to contract agreements,
7 not recognizing the hard work of our home health
8 aides.

9 Currently, they have about 600 hard-working
10 home health aides who work there at Link.

11 The health-care professionals, they worked
12 through the pandemic; they've worked hard. They
13 went with little or no support from Link.

14 Under their management, their management,
15 Hillel Adelman, we believe he needs to have a closer
16 look from the DOH and the Department of Labor.

17 Typically, they don't provide people with
18 full-time work schedules. They're always recruiting
19 people.

20 And what this causes, is that the aides
21 constantly move on because they need to find
22 supplemental work, because 20, 30 hours a week is
23 not going to pay their bills; and they are
24 minimum-wage workers.

25 This causes a bad experience for their

1 patients because the provider is constantly a
2 different person, so there is no continuity with the
3 patient.

4 Our members even report to us that there's
5 such a bad communication with Link.

6 They call the case manager. They want to
7 find out, what's the condition of the patient?

8 They are not given any medical information
9 for them. They're not given health-care plans,
10 which we believe are required by the State and by
11 regulation.

12 Members are having difficulty getting into
13 the homes of our patients.

14 Patients refuse the care to come in.

15 Typically, our aides try to call the office.

16 They get no answers from the case manager; no
17 leadership gives them any guidance.

18 And they often have to call 911 to gain
19 access into the patient's home.

20 Typically, our members, they work from a
21 location that is a member's home, which is -- excuse
22 me, which is the patient's home.

23 And the training that they're given is very
24 inadequate. They're given very little training.
25 It's all done online, even before the pandemic.

1 There is no hands-on training done at the facility
2 for Link.

3 Our understanding is, that if it's necessary,
4 or if someone complains, they try to send them out
5 somewhere to get that training.

6 We believe it should be done in-house with a
7 setting that is appropriate for the home health
8 aides.

9 Link management, you know, one of our aides
10 reported us -- to us that they have not had a care
11 plan handed to them by Link in five years of
12 employment.

13 This is truly a concern of ours.

14 Without that health-care plan, it's hard for
15 the aide to care for the person.

16 They go there, they have no answers.

17 If there's a medical emergency, they can't --
18 they are told to contact Link.

19 Link does not answer them; they get nothing
20 but voice mails. And often don't get their
21 questions answered until two to three weeks later,
22 which is way too late.

23 It is unacceptable in our eyes.

24 The aides, we have had aides that worked
25 overnight.

1 There's a requirement that they get a
2 five-hour uninterrupted sleep.

3 Very often we hear from the aides, they
4 didn't get the five hours' sleep.

5 There's no compensation, and there has been
6 no resolution to that as of this date.

7 You know, on a note, that we're trying to
8 resolve these -- a lot of these issues through our
9 bargaining table. We've been in negotiations with
10 Link Homecare for over two years.

11 For two years we have tried to get FMCS
12 involved, to get some resolution there.

13 That has not happened.

14 Right -- currently, now, we have an unfair
15 labor practices filed with the NLRB.

16 We're trying to put all our toolboxes and all
17 our tools out there to get it. But we have not had
18 any success at the table for two years.

19 The company, also in negotiations, has not
20 agreed to sign an extension, which resulted in a
21 contract being expired.

22 By the contract being expired, it cheats our
23 employees out of the grievance process.

24 So we can't even grieve that they're not
25 getting the proper pay, the proper sleep, or the

1 proper equipment.

2 SENATOR MAY: Okay. Your time is up.

3 We have a bunch of questions.

4 Did you want to say anything?

5 FRANCINE STREICH: I was just going to add on
6 something about PPE, because during the height of
7 COVID, you know, our members were put in very
8 dangerous situations.

9 In order to -- the only PPE that they were
10 able to pick up was masks.

11 They weren't given gloves, they weren't given
12 gowns. They had to pay for that out of their own
13 money.

14 To go pick up those masks, they had to travel
15 to the Link office, which is far from their homes.
16 They wouldn't get compensated for the travel time,
17 or for the time they took, you know, on their own to
18 go pick up their PPE. And then they weren't given
19 any instruction on how to use the PPE.

20 So one of our members was working with a
21 patient who was positive for TB; was never told, and
22 was in there without gloves or a gown.

23 So, you know, our workers were deemed
24 essential workers, but the way they were treated by
25 this bad home care agency certainly didn't make it

1 seem that they were essential workers.

2 And like Gene said, we tried to negotiate
3 pandemic pay for people, and we couldn't get it.

4 So not only is PPP not reimbursed, but
5 they're owed money. They're owed time on vacation,
6 they're owed time on time off.

7 We don't even think that the wage parity is
8 working the right way. And we can't tell because
9 people are now getting electronic pay stubs, which
10 they can't read.

11 So when they try and get information from
12 Link, they're not getting any help because they
13 can't reach anyone in the office.

14 So, you know, there's a lot of problems that
15 these 600 home health aides are facing.

16 SENATOR MAY: Thank you.

17 I'm going to turn it over to Senator Ramos
18 for the first questions.

19 SENATOR RAMOS: Well, thank you so much for
20 coming all the way up to Albany to share all of this
21 information with us.

22 I am very troubled by everything that you are
23 sharing with us in your testimony.

24 And I'm wondering if you can start by
25 describing a little bit more about what your

1 600 members employed by Link look like, and do, and
2 sort of what their -- the nature of their work is;
3 perhaps what a day in the life of looks like for
4 them?

5 EUGENE HICKEY: Yeah, basically, our home
6 health aides, their day starts off, they leave from
7 their home, they have to travel to their patients.

8 Their main workload is, that they would go
9 and take people's vitals. Make sure they're taking
10 medicines. Instruct them on how to care for
11 themselves.

12 Most of our home health aides, not even --
13 there's no area provided for lunch for them. They
14 have to bring their own lunch. A lot of times what
15 they do, is they have to order out their lunch,
16 which is expensive.

17 And, remember, we're talking about
18 minimum-wage workers.

19 They're very -- they're very diligent people
20 because they do this work because they love that.

21 They look like me, they look like Francine,
22 they look like you guys.

23 These are everyday people that have a genuine
24 concern for people's health, safety, and well-being.

25 It's God's work, we all know that.

1 SENATOR RAMOS: Now, at some point, you did
2 have a collective bargaining agreement?

3 EUGENE HICKEY: Yes.

4 SENATOR RAMOS: And that's been expired for,
5 now, two years?

6 EUGENE HICKEY: For two years we've been
7 trying to negotiate.

8 SENATOR RAMOS: And what has that campaign
9 looked like in order to obtain a new CBA?

10 EUGENE HICKEY: Well, when we first started
11 negotiating, we worked off of getting an extension
12 in place so we could keep all the processes in
13 place, such as grievances.

14 And we also have an issue with them not
15 submitting dues, forwarding dues to us, actually
16 trying to cause an economic hardship on the union.

17 And, also, it's denying people access to
18 health and welfare that really do need it.

19 We typically notify the company six months
20 prior to expiration, which we did, that we were
21 willing to bargain.

22 We sent a list of proposals that were put
23 together from the HHAs, from surveys we did with
24 them.

25 We've had bargaining-committee people there.

1 We presented all these things.

2 We are also represented by an attorney.

3 And we have tried to work through this for
4 almost two years.

5 And in midstream of the first year, they
6 fired their attorney, and restarted the whole
7 negotiations by hiring a new attorney.

8 So that kind of staggered it a little longer
9 than need be.

10 SENATOR RAMOS: Did the original CBA provide
11 for health benefits for this workforce?

12 And have those services been interrupted
13 because of the expiration of the agreement?

14 EUGENE HICKEY: Yes, it always did have
15 health and welfare in there.

16 People have not gotten health and welfare
17 because their -- the contract is expired.

18 Actually, we just had to send Link to
19 collections on some money that they owed for health
20 and welfare; they weren't paying the premiums.

21 And we just had to send them to our
22 collections lawyer.

23 FRANCINE STREICH: And, in fact, at an
24 orientation that I just went to this week, where
25 they bring in new members --

1 That's the one place that we're able to talk
2 to the aides because it's before they're actually
3 assigned.

4 -- they were all being encouraged to sign up
5 for Medicaid, which they shouldn't be telling them
6 to do that.

7 And I had to tell the person, "You know
8 you're not supposed to do that."

9 So, you know, they're not -- they don't
10 follow the guidelines.

11 And, you know, the majority of our workers
12 are women -- immigrant women, women of color -- and
13 I think Link takes advantage of our members.

14 SENATOR RAMOS: Have there been any
15 conversations about oversight with the Department of
16 Health and Mental Hygiene, and what have those been
17 like?

18 What type of oversight have they been able to
19 provide, particularly throughout the pandemic when
20 none of these workers have had access to health
21 insurance?

22 FRANCINE STREICH: Yeah.

23 EUGENE HICKEY: Yeah, and we have been going
24 through a lobbyist group to try to find what's the
25 right organization to go to complain.

1 We have had a lot of conversation --

2 SENATOR RAMOS: I'm sorry. You've hired a
3 lobbyist to tell you where to go to complain?

4 EUGENE HICKEY: Where to file the complaints.

5 SENATOR RAMOS: I'm sorry about that.

6 EUGENE HICKEY: Right, because, you know, we
7 wanted to go to the right organization.

8 We've made calls to different organizations,
9 and they -- it wasn't helpful to us. We were told
10 they were overseen by the Department of Health.

11 SENATOR RAMOS: And how many of your members
12 passed away during the pandemic, employed by Link?

13 FRANCINE STREICH: Well, total, we had
14 50 that passed away. But we had close to a thousand
15 came down with COVID. And that's just what we were
16 able to find out.

17 You know, Link wouldn't report it to us.

18 So that's counting some of our other -- you
19 know, our other workers as well.

20 Many of our other places would tell us, you
21 know, how many people came down with COVID.

22 One of the aides told me this morning that
23 they weren't given any information about how they
24 were supposed to report COVID cases.

25 So I don't even know if Link was getting that

1 information.

2 SENATOR RAMOS: And so when --

3 [Simultaneous talking; indiscernible.]

4 SENATOR RAMOS: -- sorry.

5 When the pandemic started, and, you know, we
6 reached the peak quite quickly here in New York, the
7 State Department did not provide any sort of
8 guidance to any of the Link employees on how to do
9 their job in a safer way?

10 FRANCINE STREICH: Not -- not that we're
11 aware of.

12 I mean, we provided information. I mean, we
13 put things on our website.

14 You know, we had difficulty accessing the
15 members because, for years, Link was hiding the list
16 from us. So even though there were 600 workers,
17 they only had -- we were only collecting dues for
18 100 -- or 180?

19 EUGENE HICKEY: About 180 folks.

20 FRANCINE STREICH: You know, people that we
21 knew of.

22 So they were hiding, for years, all of these
23 workers.

24 So we finally, in this last bargaining, got
25 the list. And then it was trying to reach out to

1 people, give them information about COVID safety.
2 You know, on our website, we have a lot of
3 information.

4 But, for years, we weren't able to even
5 contact them because they were being hidden from us.

6 They don't go to a central place for
7 training, so we couldn't even go find them there.
8 It's all online.

9 So we did have people doing 311 calls during,
10 you know, the height of COVID, to complain about
11 PPE.

12 And, you know, we can't file as a group with
13 the Department of Labor, but we are helping people
14 get together their pay stubs and their proof,
15 because a lot of them are owed money.

16 SENATOR RAMOS: Well, I'm probably out of
17 time by now, but I'm very interested in helping you.

18 So --

19 SENATOR MAY: Three more minutes.

20 SENATOR RAMOS: -- oh, I have three more
21 minutes?

22 Oh, that's the clock.

23 Thank you.

24 Well, I don't know, I mean, perhaps, is there
25 any other information that would be helpful to me,

1 as the Labor Chair, in order to help you, and
2 better -- and for everyone here, particularly the
3 press, to understand what's going on at this
4 facility -- or, I think, with this employer?

5 EUGENE HICKEY: Yeah, we definitely need --
6 we need help to get these folks to the table, and to
7 agree.

8 We get to an agreement that everybody was
9 with happy at the table. Their attorney goes back
10 to Mr. Adelman. And then we hear radio silence
11 for a month or so, until we start calling, filing
12 more charges. Then they finally come to the table.

13 FRANCINE STREICH: And they forget everything
14 they said.

15 EUGENE HICKEY: And then -- yeah, and then
16 renege on everything they say. They constantly
17 changed their position.

18 Once we thought we had a deal, where we had
19 everything, everybody laid out, where there would be
20 health care or a retirement program, a little bit of
21 raises.

22 We signed off on the MOA. We sent it to the
23 company approximately 60 days ago.

24 We still have not gotten an answer from Link.

25 SENATOR RAMOS: Can you very quickly tell me

1 about your retirement plan for your members?

2 EUGENE HICKEY: The retirement plan they
3 currently have is none.

4 We implemented -- what we would like to
5 implement is a 401(k) plan. The company is willing
6 to do that, so they say at negotiations, "but with
7 no match," which we believe needs to be matched.

8 FRANCINE STREICH: And they were saying,
9 five years, no raises.

10 I mean, this was their position until we got
11 them down to three years.

12 I mean, they're a really bad actor, and we
13 don't know what they're doing with all of the money.
14 They even got some PPP money, and we don't know what
15 they did with it.

16 You know, our members are not getting
17 reimbursed for, like, if they're taking a patient to
18 a doctor. We've even heard family members complain
19 that they haven't gotten reimbursed for that.

20 So there's something with the money going on.

21 SENATOR RAMOS: Do you even -- do you know
22 the name of their attorney?

23 EUGENE HICKEY: Yeah. I can get you the name
24 of [indiscernible].

25 SENATOR RAMOS: Okay. Please do.

1 Thank you.

2 SENATOR MAY: All right. Thanks.

3 I'm going to follow up, just quickly, because
4 I want to -- I hear stories like this all the time
5 about home care workers.

6 But you represent thousands of other home
7 care workers --

8 Is that true?

9 FRANCINE STREICH: And other workers.

10 SENATOR MAY: Yeah.

11 -- who don't have these problems, who do get
12 five hours of sleep a night, who do get travel
13 reimbursement?

14 EUGENE HICKEY: We actually represent
15 three other home health aide organizations that we
16 have a working relationship with, and have not had
17 any of these problems with them.

18 SENATOR MAY: Okay. Well --

19 EUGENE HICKEY: They all come to the table,
20 we bargain, we got collective bargaining agreements
21 in place in the others.

22 SENATOR MAY: Well, I just want to say that's
23 a testament to how valuable collective bargaining
24 is, because so many home care workers who aren't
25 represented report exactly these kinds of problems

1 all the time.

2 So I want to thank you for the work you do to
3 help the workers who are under your umbrella to get
4 those kinds of protections, because they're so
5 important.

6 FRANCINE STREICH: And just to emphasize what
7 Gene said, the fact that they won't process
8 grievances now, almost makes it as if they don't
9 have a union.

10 So we have all -- you know, I talked to
11 people this morning. You know, they're owed pay.
12 They're owed -- you know, they're having problems.
13 And because they won't process grievances, you
14 know...

15 EUGENE HICKEY: Right. That's our mechanism
16 to resolve issues. And, apparently, they don't want
17 to resolve the issues, or else they would come to
18 the table, come to an agreement.

19 Not even come to an agreement, but at least
20 sign an extension, keep the existing contract in
21 place, while we work through the issues.

22 They refused to do that.

23 So it's very important that, as Francine
24 said, these folks, they feel like they don't have
25 anybody.

1 For years, we've chased after Link.

2 They've hidden somewhere between 400 members,
3 which we finally did get in contact, that never knew
4 that they were part of a union; they were never
5 told.

6 SENATOR MAY: Okay. Thank you.

7 Senator Serino.

8 SENATOR SERINO: Thank you, Senator.

9 You know, I receive so many phone calls from
10 health-care workers regarding gloves. Right?

11 That is mind-blowing because that should be a
12 basic priority.

13 And during last year's hearing on nursing
14 homes and the residential health-care facilities,
15 that was a huge part of our discussion, was the lack
16 of PPE training.

17 And I was just wondering, have you noticed
18 any change on that since then, since last year?

19 FRANCINE STREICH: Not with Link.

20 EUGENE HICKEY: No. No.

21 The only changes that occurs, when that --
22 when a field director has gone to the facility and
23 actually embarrassed them.

24 We've actually brought gloves to facilities
25 to hand them out.

1 But you're right, it's a basic need of
2 protection, it's your first line of protection.

3 And these folks are out there with no
4 protection.

5 FRANCINE STREICH: Yeah, even in our
6 assisted-living facilities, where we represent
7 workers, I mean, it's better, but it's still, like,
8 controlled.

9 They have to go through a manager if they
10 need it. And oftentimes they're afraid to ask the
11 manager.

12 So, you know, it's not easy to get the PPE
13 that they need.

14 Masks, yes.

15 Gloves and gowns, no.

16 SENATOR SERINO: That's absolutely
17 horrifying.

18 FRANCINE STREICH: Yeah. Or they're the
19 wrong gloves, let me say that.

20 We have places where they're wearing gloves
21 that they've gotten, and they're open around the
22 wrist. And, you know, they're coming in contact
23 with body fluids.

24 SENATOR SERINO: And I know that this is
25 obviously a hearing about staffing shortage, but --

1 and not procedure. But procedure is so important.

2 Right?

3 Because, if you feel like your own health is
4 at risk, you know, that's going to have quite an
5 impact on you.

6 So what suggestions do you have to improve
7 that training?

8 FRANCINE STREICH: Well, I mean, you know,
9 what our aides would say, is that the online
10 training doesn't work.

11 You know, watching a video, and it's not even
12 like a group Zoom. I mean, it's, like, they log on
13 themselves to watch this video. And half the time
14 they'll say, the link -- the Link -- Link's link
15 doesn't work.

16 So, you know, there needs to be more
17 in-person, more hands-on, training.

18 When they're sent out to do the required
19 training that they're supposed to get, they have to
20 pay for it, which is ridiculous.

21 Link should be providing that.

22 So I think that's one thing, is that, you
23 know, the training really needs to be tightened
24 down.

25 But the other thing is that, on an ongoing

1 basis, Link doesn't have a system to answer calls.

2 So we just heard the other day, they're
3 thinking of outsourcing it to a call center, because
4 they have case manager who has 100 calls that come
5 in.

6 Well, yeah, we know they have 100 calls come
7 in because our members tell us they can't reach
8 anyone.

9 So they're not able to get help every day in
10 their jobs. You know, Link has no system to provide
11 support to people.

12 And I've tried myself, I've called. I've
13 been put -- you can call the number. I've been put
14 on hold. I've been cut off. They transfer you to
15 another number, it's a voice mail.

16 They can't reach their case managers.

17 And we have families, like a parent of a
18 client/a resident, who is -- she can't reach them
19 either; she can't reach her case manager.

20 So I think they have to -- you know,
21 something has to be done, not only for training, but
22 ongoing support and communication. And then the
23 whole PPE issue has to be resolved.

24 You know, and they shouldn't have to go on
25 their own time to pick up PPE, and it's not even the

1 full PPE.

2 SENATOR SERINO: No, absolutely, they need to
3 be protected. I mean, if they're protected, and
4 then the vulnerable residents are protected as well.

5 FRANCINE STREICH: They're terrified that
6 they're going to bring something home to their
7 families --

8 SENATOR SERINO: Yes.

9 FRANCINE STREICH: -- because they're in
10 homes where the only thing that was required of the
11 patient by Link, was that the patient be wearing a
12 mask, and our, you know, provider be wearing a mask.

13 But then there's people walking around the
14 home who -- who knows what their status is, and
15 they're not required to wear masks.

16 So, you know, this is a big concern when
17 you're going into people's houses: how safe are you?

18 You know, how would we all feel, walking into
19 a home?

20 EUGENE HICKEY: Yeah. And we hear the
21 stories from the folks/from the HHAs, that they
22 fear. Like, they go into the garage or a back
23 porch, they take all their clothes and put them in a
24 plastic bag before they even go home to their loved
25 ones.

1 A lot of these facilities they go to, it's a
2 person's home. So they can't really change their
3 clothes there like if you were in a factory or
4 something.

5 So they're in a pretty awkward position.

6 And as I think Francine had said, is that a
7 lot of the folks, you go into their homes, you don't
8 know what they have because they don't have a care
9 program, they don't know what's in this plan.

10 Does this person have dementia?

11 Does person have TB?

12 They have no idea what they're walking into.

13 FRANCINE STREICH: I got a copy of a text the
14 other day from one of our providers who's new.

15 They told her, Can you take this case?

16 You know, she said, Yes.

17 They sent her the patient's name and the
18 address, and that was it. And then she got there.

19 I said, Well, was there a care plan there?
20 You know, the nurse should leave a care plan.

21 She said, No.

22 SENATOR SERINO: Oh, my God.

23 FRANCINE STREICH: So it's, like --

24 SENATOR SERINO: That's terrible.

25 FRANCINE STREICH: -- just sending them out.

1 SENATOR SERINO: Well, I hope that gets
2 resolved, because that's awful.

3 FRANCINE STREICH: Yeah.

4 SENATOR SERINO: Thank you.

5 SENATOR MAY: All right. Senator Mayer.

6 SENATOR MAYER: Just quickly, isn't Link
7 licensed by the state Department of Health as a
8 Medicaid home care provider?

9 FRANCINE STREICH: Yep.

10 SENATOR MAYER: And are they not paid
11 Medicaid reimbursement for each of these patients
12 that your members visit?

13 FRANCINE STREICH: Not all of them; but, yes,
14 most of them.

15 SENATOR MAYER: The vast majority --

16 FRANCINE STREICH: Yes.

17 SENATOR MAYER: -- I would assume are
18 Medicaid?

19 Have you filed a formal complaint at any time
20 with the Department of Health regarding the conduct
21 of Link?

22 FRANCINE STREICH: This was our first step
23 here today. And then, yes, that will be the next
24 step.

25 SENATOR MAYER: But you haven't gone to them

1 yet, the Department of Health?

2 FRANCINE STREICH: Not as a --

3 SENATOR MAYER: [Simultaneous talking;
4 indiscernible] Department of Health.

5 FRANCINE STREICH: Not as a union, no.
6 Individuals, yes.

7 SENATOR MAYER: Individuals have gone to the
8 Department of Health.

9 And has there been any response?

10 FRANCINE STREICH: Not yet.

11 Not that we know of.

12 SENATOR MAYER: And have they gone to the
13 Department of Labor as well?

14 FRANCINE STREICH: Not yet.

15 SENATOR MAYER: Okay. Thank you.

16 SENATOR MAY: All right.

17 Thank you very much for your testimony, and
18 for bringing this to our attention.

19 EUGENE HICKEY: Thank you.

20 SENATOR RAMOS: And we'll follow up, yes.

21 EUGENE HICKEY: Yes. And I'll get you their
22 attorney's information.

23 SENATOR MAY: Next we have, Grace Bogdanove,
24 William Roe, and Tonya Blackshear.

25 All right.

1 We'll start with Grace.

2 GRACE BOGDANOVE: All right.

3 Well, first, I would just like to thank
4 Senator May, Senator Rivera, and Senator Ramos,
5 everyone here, for having us.

6 My name is Grace Bogdanove. I'm the
7 Western New York nursing home division
8 vice president for 1199 SEIU, United Healthcare
9 Workers East, out of Buffalo, New York.

10 I'm joined by Tonya and Bill, two of our
11 members.

12 1199 represents over 65,000 nursing home
13 workers across our state.

14 And I appreciate the opportunity to share our
15 union's perspective on the workforce shortages and
16 the challenges in the nursing home industry.

17 Our union played a pivotal role in New York's
18 new requirements for minimum spending on quality
19 care and staffing, as well as the new requirement
20 for minimum hours of care.

21 Adequate nursing home staffing has been the
22 number-one priority for 1199 members for years, and
23 we are hopeful these changes will make a real
24 difference for residents and health-care workers.

25 From our experience, the workforce challenge

1 in New York is not a result of there being too few
2 caregivers available.

3 CMS COVID-19 data for the week ending
4 June 20th shows that 89 percent of facilities
5 responding said that there is no shortage of aides,
6 97 percent said that there was no shortage of
7 clinical staff.

8 Over and over again, workers tell us that
9 facilities are hiring.

10 So instead of a worker shortage, the reality
11 is, that inadequate pay and benefits, poor working
12 conditions, and the inability to have a seat at the
13 table on matters concerning resident care are
14 driving caregivers from the bedside.

15 The real challenge that we're facing is
16 turnover.

17 In 2019, LeadingAge reported that the
18 turnover rate for CNAs in New York State was
19 25 percent; however, regional medians vary, from a
20 very low of 9 percent in New York City, to a high of
21 52 percent in the Buffalo region.

22 So what drives caregivers away from nursing
23 homes?

24 Typically, the pay is inadequate and the
25 workload is overwhelming.

1 Caregivers do not feel valued or have a say
2 in how care is delivered.

3 And, finally, research indicates that working
4 in a for-profit facility is associated with higher
5 turnover, likely because these issues are more acute
6 for workers in the for-profit setting.

7 We know that higher turnover is associated
8 with lower-quality care.

9 Continuity of care is crucial for nursing
10 home residents.

11 Caregivers get to know residents that they
12 see daily, they understand resident needs, and can
13 identify changes in conditions, ensuring a greater
14 quality of care provided to the residents.

15 A 2021 study showed that facilities with the
16 highest median turnover rates had the lowest CMS
17 overall star ratings, and the highest rated
18 facilities had the lowest turnover.

19 If we're going to improve nursing home care
20 in New York, and providers are going to meet the new
21 standards for staffing, we must reduce turnover.

22 Living wages, quality and affordable health
23 care, and a secure retirement are the fundamental
24 features that can keep workers at the bedside, even
25 when other conditions, such as short staffing, are

1 present.

2 In addition to quality wages and benefits,
3 workers must have a voice in how care is delivered.

4 In the 2018 cost reports, we found the
5 statewide retention rate for CNAs to be
6 75 percent, but the statewide average retention rate
7 for CNAs not represented by a union was lower,
8 68 percent.

9 I already mentioned the 9 percent turnover
10 rate for CNAs in New York City.

11 This makes sense.

12 These are largely union jobs, with union
13 negotiated affordable and quality health care and
14 retirement benefits, and a unionized workplace is
15 the vehicle for workers to have a voice in how
16 health care is delivered.

17 As simple as our solutions sound, our
18 experience is that some employers are still doing
19 the opposite.

20 We still bargain contracts with employers who
21 fight tooth and nail to limit increases in wages and
22 benefits. They then turn around and pay premium
23 prices for per diem and contracted staff because
24 they can't recruit workers at the wages that they
25 pay directly employed staff.

1 For example, just last year, 1199 members at
2 a nursing home in Buffalo had to fight for an
3 improved CNA start rate; a start rate that remained
4 below \$15.

5 This is a facility whose CEO has an estimated
6 net worth of over 500 million.

7 And, recently, 1199 members at two other
8 facilities in Western New York negotiated for
9 months, fighting to raise hiring rates with an
10 employer that offers new hires the choice between
11 being in-house employees and working for the agency.

12 We know that many of these agencies are
13 connected to and often owned by the very same
14 network of people who own and operate these
15 facilities.

16 And it should come as no surprise that some
17 of the workers in these facilities are no longer
18 directly employed; but, instead, choose to work
19 through these agencies in order to earn a higher
20 wage.

21 So to reiterate, our recommendations to keep
22 and grow the workforce are:

23 To strongly enforce the new minimum staffing
24 and spending requirements to improve quality jobs
25 and care.

1 To provide adequate wages, quality and
2 affordable health care, and retirement security to
3 caregivers directly employed by the nursing home.

4 To improve worker engagement and investment
5 in the workplace by including caregivers in
6 recruitment, quality improvement, problem-solving,
7 scheduling, and mentoring new staff.

8 To improve onboarding, training, and worker
9 supports.

10 I would like to mention that our training
11 fund focuses on providing these supports. And we've
12 provided written testimony on this for you to
13 review.

14 And, finally, to support funding increases
15 for nursing home care that are targeted at improving
16 wages, benefits, training, and supports for
17 caregivers directly employed by providers.

18 I'd also like to mention that, in a previous
19 panel, med techs were mentioned as a possible
20 solution; however, this descales LPN labor, and it
21 destroys the CNA-to-LPN career ladder.

22 This is key to retention in nursing home
23 industry.

24 So during the pandemic, some of our
25 facilities engaged their workforces in meeting the

1 challenge of COVID-19.

2 In many cases, these facilities did a better
3 job at protecting both residents and staff.

4 We're confident that we can do the very same
5 to meet the workforce challenge of turnover and
6 retention.

7 Thank you.

8 SENATOR MAY: Thank you.

9 Mr. Roe.

10 WILLIAM ROE: Good morning.

11 I appreciate the opportunity to speak before
12 this committee.

13 My name is William Roe. I'm the son of a
14 marine who served in Vietnam, and my grandfather who
15 served in World War II.

16 I myself, I'm a nurse. I work in
17 Manhattan -- I work in two nursing homes: one in
18 Manhattan; of course, one in The Bronx.

19 Before my nursing career, I was a stock
20 broker on Wall Street for eight years.

21 Due to 9/11, I worked in World Trade
22 Center I, and I was on my way to work, and I escaped
23 the tragedy.

24 Due to that event, I could no longer continue
25 working in downtown Manhattan, so I changed my

1 career.

2 My career was changed.

3 I was interested in nursing because it was
4 more fundamentally moral. And I could help and
5 benefit people who were suffering illnesses, and
6 different things like that.

7 I have a personality, basically, that, you
8 know, I can basically overlook certain things, and
9 help people feel better, and overcome their
10 illnesses and their diseases and their downtrodden
11 spirit.

12 Basically, my goal is to improve our
13 residents' health. But, very often, residents have
14 terminal illnesses, and I'm the last person that
15 they see. So I try to make their last days brighter
16 days.

17 I try to make their families feel more
18 encouraged that there is a better day coming.

19 Prior to the COVID pandemic, staffing was
20 very good in hospitals and in nursing homes; we had
21 no issue with that.

22 Sometimes we had to send people home because
23 of the staffing situation, the staffing situation
24 was so great.

25 When COVID came, it was a different type of

1 enemy, because it was in the air.

2 It was in the air; and, basically, not only
3 could you get sick, you could bring it home to your
4 family, and then further progress the situation.

5 I'm an 1199 union delegate. And I have to
6 admit, the COVID pandemic has disturbed the
7 staffing.

8 Can you imagine having 40 residents, 1 nurse,
9 2 CNAs?

10 Can you imagine having a floor that doesn't
11 even have a nurse, and you have to cover your floor,
12 which is 40 residents, and then another floor, which
13 is another 40 residents?

14 This is what this COVID pandemic has brought
15 us. It's a reality we live with every day.

16 And I'm asking this panel to look into it and
17 to help us out, because times are hard.

18 Unfortunately, some of the workers in the
19 health-care industry, they're not encouraged to come
20 back. That's one of the reasons of the shortage.

21 Due to the fact that you're putting yourself
22 on the front line, and you're not -- your needs are
23 not being met and your dignity is not being met.

24 Dignity can't be paid. It cannot.

25 Can't pay for my dignity. But you can meet

1 it with a proper wage. You can meet it with proper
2 PPE equipment. You can meet it with respect and
3 dignity.

4 Can you imagine, during this time, when they
5 celebrated the heroes, they gave us T-Shirts and
6 they gave us pens.

7 And we were putting ourselves on the front
8 line, risking our lives.

9 And to be honest with you, we didn't do it
10 for money. We did it out of our own self-will.

11 But don't disrespect our dignity by not
12 meeting our needs, and not respecting us and what
13 we're putting ourselves through and the sacrifices
14 that we're making.

15 That's why we're here today.

16 This is the workforce challenge we have to
17 overcome.

18 Workers need to feel they can walk into a
19 facility without risking their health or the health
20 of their family.

21 We need to make sure we have enough PPE and
22 infection-control plans in place, and workers know
23 the plan -- the plans are fully effective.

24 Finally, we need to pay workers wages that
25 reflect both the risk that we'll face -- that we

1 will face in a nursing home setting when there is a
2 deadly virus.

3 And more importantly, we have to pay workers
4 a wage that recognizes the dignity and importance of
5 the work we do every day.

6 If we can keep them safe and pay them the
7 wages that reflects the importance of the work, they
8 will come into the facility.

9 People will be more encouraged to come back
10 into health-care facilities, understanding that
11 they're facing a COVID-19 risk to their very lives.

12 Thank you very much for your time, and
13 understanding.

14 SENATOR MAY: Thank you.

15 TONYA BLACKSHEAR: Hi. Good morning.

16 My name is Tonya Blackshear, and I work as a
17 CNA in a nursing home in Utica.

18 I have been a CNA for over 26 years.

19 26 years may sound like a long time to do a
20 very difficult job, and it is. But, I like taking
21 care of the residents, and I'm committed to making
22 sure they get the best care they can.

23 Over the years I've gone to school for other
24 health-care positions. But, from the bottom of my
25 heart, my place was in the nursing home with those

1 residents.

2 The challenge is, how do we make sure there
3 are lots of young women -- and it is women, for the
4 most part, starting out today -- who will be there
5 26 from now.

6 My facility has always struggled keeping new
7 staff, and the pandemic has made this worse.

8 It was scary during the pandemic.

9 I remember when I had to go into a room where
10 I knew the resident was COVID-positive.

11 I cried at first, but I put on my PPE and did
12 what I had to do because the resident needed that
13 care.

14 I was fortunate not to get sick, but some
15 did. And some quit, and they never returned.

16 Before the pandemic we had a lot of
17 vacancies, and now it's worse.

18 The current staff worked double shifts, come
19 back to the work after catching some sleep, and can
20 be faced with having to do another double.

21 It's brutal on the body, and people are
22 getting hurt, like I did.

23 From my experience, for every ten new workers
24 that came into the building, five don't make it past
25 the probation period, and two make it past the first

1 year.

2 We do orientation every week for new staff,
3 and we average about nine or ten new staff per
4 month.

5 That means we are seeing over 100 new staff a
6 year, but we can only keep -- maybe keep 20. The
7 work is simply too hard for what we are paid.

8 Our employer thinks that because we work in a
9 poorer area, they can pay us poverty wages.

10 But people can go to fast-food and make more
11 than our starting rates.

12 What's happening now, is our facility is
13 mostly hiring agency staff who get paid a lot more
14 than we do.

15 CNAs start at \$13.50 here, and the agency
16 is making over 16.

17 LPNs at my facility are making 18.75, and
18 agencies are coming in making over \$28.

19 Also, a lot of long-term staff are switching
20 to per diem because they can make more.

21 They lost their health benefits, but, for
22 them, the extra pay is worth it.

23 We have two agency LPNs who have worked
24 with us on the floor since the pandemic started.

25 They both always said, that if they were

1 offered their agency rate of pay, they would stay,
2 be in the house for union employees.

3 The last time we negotiated a contract, our
4 employer refused to raise the start rate.

5 Now they are paying for this by having to
6 hire agency instead.

7 I know it takes a special person to work in a
8 nursing home, but it shouldn't just be that way.

9 Employers need to value the work we do.

10 Employers need to have to start paying wages
11 that are well above fast-food if they want to keep
12 people who are coming in the door.

13 It's not that there are no workers applying
14 for nursing home jobs.

15 Remember, we are getting about 100 new hires
16 a year. Employers need to pay them enough so we
17 don't lose 80 of these 100.

18 Thank you.

19 SENATOR MAY: Thank you.

20 And thank all of you for your testimony, and
21 the work you do, and -- and your stories, which are
22 so compelling.

23 I -- Tonya, I wanted to follow up on a couple
24 of things you said.

25 You talked about working double shifts.

1 One of the things that we've heard -- that
2 we've certainly heard during the pandemic, was that
3 people -- I shouldn't say in the past tense, it's
4 still going on -- but people were working a shift at
5 one facility, and then working a second shift, but
6 not at the same facility, because they couldn't get
7 overtime pay. So they were going to a separate
8 facility in order to make ends meet because they
9 needed the additional work.

10 Is that your experience, or are people
11 working double shifts and getting overtime pay?

12 TONYA BLACKSHEAR: Oh, there's some employees
13 that might have did that. But the employees, that
14 most of them, they liked the job, so they stayed
15 there and did doubles, to make sure the care was
16 getting done.

17 SENATOR MAY: And did they get overtime pay
18 for that?

19 TONYA BLACKSHEAR: Yeah, they got -- they got
20 overtime.

21 SENATOR MAY: And, then, when you talk about
22 the per diem, this is the same as the agencies that
23 you were talking about, Grace? Is that right?

24 GRACE BOGDANOVE: So, not quite.

25 For Tonya's case and her facility, the

1 per diem employees are part of the union, so they
2 remain union employees. But they just forego some
3 of the other negotiated benefits within the
4 contract, like health insurance and pension.

5 And, unfortunately, you know, these members
6 have to make that choice because their paycheck, at
7 the end of the day, doesn't cut it, and they have
8 bills to pay.

9 But no one should have to sacrifice between a
10 quality and affordable health-insurance plan and
11 their pension plan, and making a couple extra bucks
12 on the job.

13 SENATOR MAY: But that's negotiated by the
14 union as an option for the workers?

15 GRACE BOGDANOVE: Yep, absolutely.

16 I mean, some of our workers would go agency
17 and have no union job security, and not have, you
18 know, set hours that they could potentially pick up
19 at a facility.

20 So in this contract, the per diems are part
21 of the union.

22 That's not the case in every facility.

23 SENATOR MAY: And then the agencies that you
24 were talking about are these, essentially, temp
25 agencies that provide workers?

1 GRACE BOGDANOVE: Right. Separate contracted
2 agencies that, you know, send workers to facilities
3 to fill open holes.

4 But, more and more, because there's such high
5 turnover, agency workers, they have their pick of
6 shifts. They can come in and pick up as many hours
7 as they want, and, really, they could work full-time
8 hours if they wanted to, and earn that higher wage.

9 But when they feel that burnout, or when
10 they're tired, they can take a step back.

11 And regular full-time and part-time employees
12 have a commitment to the facility and to their
13 residents, so they continue that work.

14 SENATOR MAY: And then you said that the
15 agencies were often owned by the same people who own
16 the facilities?

17 GRACE BOGDANOVE: Sure.

18 SENATOR MAY: Is that -- that's nursing homes
19 and assisted-living facilities?

20 GRACE BOGDANOVE: Yes. My experience is with
21 nursing homes, and that is something that we see
22 frequently, whether it's a relative, or somebody
23 who's somewhat within that network of owners, there
24 is usually a connection to several of these
25 agencies, where owners of facilities have a familial

1 or work relationship that connects them to the
2 agencies that they contract with.

3 SENATOR MAY: Okay. That's really helpful to
4 know.

5 I wanted to just end by asking you
6 about something that I have read about in
7 Washington State.

8 SEIU in Washington State has a
9 labor-management partnership with the State of
10 Washington, with private health-care industries, and
11 created a training -- health-care northwest training
12 partnership, that I'll just read how they describe
13 it.

14 "The nation's first large-scale career
15 pathway program for home care aides" --

16 This is about home care, but I think it also
17 applies to the aides who work in nursing homes as
18 well.

19 -- "so that they work together to create an
20 apprenticeship, and have brought in 3,000 new
21 apprentices over the last five years."

22 So I was wondering if there is anything like
23 that, that SEIU is thinking about, in terms of
24 collaborations with the State, with the facilities,
25 in order to create -- I guess I don't know to what

1 extent the union is involved in actually recruiting
2 new people in the field, or do you just represent
3 people once they have decided to enter this work.

4 And would you be interested, if this were a
5 model that we could try to import here to
6 New York State?

7 GRACE BOGDANOVE: Sure. Absolutely.

8 I can actually cite two examples for you, one
9 in Syracuse and one in Buffalo, where we have LPN
10 apprenticeship programs.

11 We have partnered with management at two of
12 our nursing homes in the upstate region, to actually
13 create a way for CNAs to go to LPN school; remain
14 employed as CNAs while going back to school --
15 right? -- keeping their jobs and their benefits, so
16 that we can help them move upwards on that career
17 ladder.

18 That's a joint effort between union,
19 management, and with the help of our training fund.

20 So that's where I mentioned our training fund
21 is ahead of the game on this. And we're very
22 involved, and very excited to continue this work.

23 We need employers to work with us.

24 SENATOR MAY: Great.

25 Thank you very much.

1 SENATOR RAMOS: I actually want to begin by
2 acknowledging your ability to come here and testify
3 today, perhaps taking a day off from work.

4 You know, we've -- up until this moment,
5 we've really only heard from health-care executives;
6 but not the actual rank and file, not the actual
7 people doing the work of caring for others.

8 So I just want to thank you for taking the
9 time, and acknowledge the fact that you're able to
10 do this because you have a union to take care of
11 you.

12 And I'm wondering if the union has had any
13 conversations with the second floor, with the
14 governor's office, throughout this pandemic, about
15 hazard pay for your members, and for other
16 health-care professionals, throughout this endeavor?

17 GRACE BOGDANOVE: Yeah, absolutely, we've had
18 conversations, from the basic level with our
19 employers, to all of our elected representatives.

20 And, you know, many of our employers failed
21 the members over the past year, and did not provide
22 hazard pay, did not provide proper PPE.

23 But we have been exhausting every avenue to
24 make sure that our folks get paid for what they
25 deserve.

1 SENATOR RAMOS: You know, I'm -- I used to
2 work for SEIU, Local 32BJ specifically, for many
3 years. And I'm very proud to say I'm probably one
4 of the few people of my generation who have a
5 pension to look forward to.

6 And so I'm wondering if you can describe for
7 others, what your wages and benefits are?

8 Because we've heard a little bit about what
9 it's like to be a non-union worker in this industry.

10 What's it like to actually have a collective
11 bargaining agreement?

12 What does that provide for you?

13 WILLIAM ROE: Basically, in regards to
14 nursing, a nursing benefit package would include
15 full-time, you get 4 weeks' vacation, you get
16 12 sick days, you basically get 2 personal, and you
17 get your birthday.

18 SENATOR RAMOS: Nice.

19 WILLIAM ROE: You also receive, like, for
20 paternity or maternity.

21 In my case, you know, I can't get pregnant,
22 but I had to assist, you know, in the birth of my
23 child.

24 SENATOR RAMOS: That's right.

25 WILLIAM ROE: So it's called "paternity" --

1 SENATOR RAMOS: That's right.

2 WILLIAM ROE: -- not maternity.

3 SENATOR RAMOS: Parental leave.

4 WILLIAM ROE: So they provide two days --
5 two or three days for that, paid.

6 And, basically, we're looking into that to
7 improve that in the next contract.

8 GRACE BOGDANOVE: I would just add, the
9 national benefit fund, our health-insurance plans,
10 our pension plans, are, you know, key pieces of what
11 we negotiate into our collective bargaining
12 agreements, and are crucial for retention, and for
13 recruitment, into nursing home industry.

14 SENATOR RAMOS: Tonya, you work in Utica, not
15 in the five boroughs; and, therefore, your minimum
16 wage is very different from ours downstate.

17 Would you argue that perhaps the upstate
18 minimum wage was erroneously made less than
19 New York City, and should actually be the same and
20 leveled throughout the state?

21 TONYA BLACKSHEAR: Yes. We argue so much
22 that it should be across the board for everyone.

23 We -- you know, when we come to the tables,
24 we hear the other side, and the lawyers say, "We
25 better be glad that we got a job."

1 I think that's insulting to say that to the
2 members, when we work hard, and we fighting at the
3 table to negotiate, to get what we have to get for
4 everyone, not just certain people.

5 So our contract is ending right now.

6 So, May, we go to negotiate again.

7 I'm hoping that they boost the pay rate up.

8 We just got to fight harder and harder so we
9 can get the members into the building.

10 We can't have them keep going out because you
11 keep wanting to pay -- don't want to pay the right
12 pay rates to these employees.

13 They can go everywhere else to get more
14 money.

15 But sometimes when people at the nursing
16 home, and they feel like these residents are their
17 family. We don't just come there just for a
18 paycheck, but we still got to survive, too.

19 SENATOR RAMOS: Yes. No, absolutely.

20 And thrive.

21 Not just survive, thrive. Right?

22 TONYA BLACKSHEAR: Thrive, yes.

23 SENATOR RAMOS: So what would those extra
24 dollars mean for a family like yours?

25 What would you be able to provide for your

1 family, or, you know, how would that change your
2 life?

3 TONYA BLACKSHEAR: Well, actually, it would
4 pay my bills.

5 I won't have to live for paycheck to
6 paycheck.

7 And after that, you know, the bills that
8 I have past due, I can actually pay on them if I get
9 a decent rate; or I wouldn't have to borrow from my
10 uncle, my mother, just to strive and pay what I have
11 to pay at home.

12 SENATOR RAMOS: Uh-huh, uh-huh.

13 Are you a mom, too?

14 TONYA BLACKSHEAR: Yes.

15 SENATOR RAMOS: Yes.

16 Is childcare something that you currently
17 have to deal with, or have had to deal with, in your
18 career?

19 TONYA BLACKSHEAR: Well, back then, because
20 my daughter is 31.

21 So she -- you know, she strives, and she
22 worked in a nursing home, too. So she had her
23 struggles into a nursing home, too, where she had to
24 pay, make ends meet, too. But, you know, now she
25 works for the State.

1 She said she couldn't work for the facility
2 because they wasn't paying enough.

3 I mean, I could have went to school for
4 anything.

5 I went for phlebotomist. I didn't want that.

6 I went for forensic. I couldn't do that.

7 I don't know, from -- in the bottom of my
8 heart, something told me to stay at that nursing
9 home because these residents depend on me.

10 SENATOR RAMOS: Uh-huh. That's very
11 beautiful.

12 It sounds like you found your vocation, and
13 it sounds like it might be your daughter's, too.

14 So she said she's happy working for the
15 State?

16 TONYA BLACKSHEAR: Yes.

17 SENATOR RAMOS: What are -- what are -- can
18 you tell us a little bit about her conditions?

19 TONYA BLACKSHEAR: She went to -- she was
20 working as a regular employee, but she also went to
21 agency, because she said they weren't paying enough.

22 Because she has three children, so she said
23 that wasn't enough for her. So she applied for the
24 job in Utica, and they moved her to Syracuse.

25 Now she's going for a supervisor position.

1 And she just bought a house, because she said she
2 makes more.

3 SENATOR RAMOS: Okay. Well, that's nice.

4 I guess in my -- what remains of my time --

5 Thank you, Zach, because I can't see that.

6 -- I'm wondering if I can -- if we can learn
7 more about, perhaps, what the union is doing to
8 organize new workplaces, and what that looks like;
9 what the hinderances of organizing might be, given
10 how remote, you know, home attendants might be if
11 they're servicing patients in their home?

12 I imagine that it is very difficult because
13 there is no central workplace, necessarily.

14 What's the organizing look like?

15 GRACE BOGDANOVE: I don't want to steal the
16 spotlight from the home care panel, but, you know,
17 I think it is difficult, from my understanding.

18 That's not my division.

19 I've got the nursing home division. I can
20 speak to our organizing efforts.

21 SENATOR RAMOS: Okay.

22 GRACE BOGDANOVE: You know, for nursing
23 homes, it's a little -- it's totally different than
24 home care -- right? -- because people are in one
25 place, so it's traditional union organizing.

1 What I will say is that, you know, just like
2 what we see at the bargaining table with employers,
3 really, really nickel and diming us, and really
4 fighting our members on any raise in benefits or
5 wages, it's just as difficult to organize a new
6 workplace. Where our members want to bring a union
7 into their workplace, employers fight tooth and nail
8 to keep us out.

9 And that certainly has not changed. I think
10 it's maybe gotten worse.

11 SENATOR RAMOS: How do they do that?

12 What type of methods do they use to keep the
13 union out of the workplace?

14 Do they captive-audience meetings?

15 GRACE BOGDANOVE: Absolutely.

16 SENATOR RAMOS: Uh-huh.

17 GRACE BOGDANOVE: Absolutely,
18 captive-audience meetings. Right?

19 Bring in consultants.

20 They pay, you know, ridiculous amounts of
21 monies to bring in union-busting consultants, and
22 all of these firms, when, really, the workers just
23 want a seat at the table. They want a voice in how
24 care is delivered, and in their wages and benefits
25 at work.

1 SENATOR RAMOS: Okay.

2 Thank you.

3 SENATOR RIVERA: Hey, folks. Thank you for
4 being here.

5 I just have a couple of questions.

6 Kind of the centerpiece of your testimony,
7 actually, was very much I guess in line with what
8 we've heard from some in the industry earlier, as
9 far as turnover being the big issue.

10 Obviously, the reimbursement, we've gone over
11 this many times -- right? -- as far as
12 reimbursement.

13 And we've had the conversation about the cuts
14 that happened during the pandemic. [Indiscernible.]

15 And, certainly, many of us fought to make
16 sure that wouldn't be the case, but, you know, our
17 good governor thought that it was the best way to
18 go.

19 Anyway, as far as reducing turnover, though,
20 obviously, the better pay and better working
21 conditions are a key thing.

22 Also, making sure there's a career path is
23 also part of what you suggested.

24 I wanted to just dig a little bit into the
25 stats, because you don't seem -- you seem to agree,

1 certainly, a turnover is an issue, but the turnover
2 is not as high as was said earlier, because there
3 was certainly a lot of concerning numbers that we
4 heard earlier, as far as 90 some-odd percent.

5 Do you think -- do you agree with those
6 numbers?

7 Were those -- because, obviously, turnover is
8 at the core of it, but seems that the stats are a
9 little bit different.

10 GRACE BOGDANOVE: No, certainly, I think
11 turnover is a huge issue right now.

12 So, you know, whether our numbers don't line
13 up exactly, it is an incredibly pressing issue.

14 To me, it's one of the most pressing issues
15 right now in the industry.

16 You know, people come in through the door,
17 and so it looks like your staffing numbers are okay,
18 because they're there. It's their first week on the
19 job, but you've got numbers on the floor.

20 What we're not seeing there, though, is these
21 people have to be oriented to the floor.

22 Do the staff have the time -- the in-house
23 staff, do they have time to orient the new employee
24 properly so that they can really get a sense of the
25 residents, of the layout of the floor, and how

1 things work?

2 It's all extra work to have to orient a new
3 person; and then to see them walk out the door a few
4 days later, a week later, a month later, like Tonya
5 was saying.

6 I mean, turnover is an incredible challenge
7 right now.

8 And, you know, people come in through the
9 door, thinking it might be a rewarding, you know,
10 career, and it certainly is. But right now, with
11 the way that working conditions are, and with the
12 low pay and poor benefits, it just really isn't
13 worth it for a lot of folks.

14 SENATOR RIVERA: So as far as the top line
15 here, if we can assure more -- better pay, we can
16 assure better working conditions, and make sure that
17 there's a career path for folks that enter the
18 industry, those are kind of the top -- you would say
19 those are the top-line things?

20 Obviously, each one of those is a very big
21 bucket, but at least those are the top lines, you
22 would say?

23 GRACE BOGDANOVE: Absolutely.

24 And, you know, I will say there are employers
25 who have recognized that, and who have worked with

1 1199 -- right? -- to do LPN apprenticeship programs;
2 to come to the table and say, What is a competitive
3 market rate that we can offer for CNAs? Let's
4 actually put our heads together here, and let's do
5 this right by these residents.

6 In the same breath, we have employers who do
7 the exact opposite; who don't want to work with
8 1199 members, who cut them out of conversations when
9 it comes down to how resident care is delivered, or
10 issues on the floor, and who fight us at the
11 bargaining table.

12 SENATOR RIVERA: And, certainly, having that
13 collective bargaining power actually assures that
14 the folks who work in the unionized workplaces have
15 an ability to do those fights?

16 GRACE BOGDANOVE: Absolutely.

17 It's a tough fight, but it's one that our
18 members take on every day.

19 SENATOR RIVERA: And last, but not least, if
20 there was such a thing, I don't know, to guarantee
21 health care for everybody, something, I don't,
22 legislatively, like something called the "New York
23 Health Act," as an example, do you think that you,
24 in your negotiations, would be able to do more for
25 your members, since them, as residents and full-time

1 employees in the state of New York, would be --
2 would have health care guaranteed to them?

3 Do you think that you would be able to then
4 have better benefits for your members?

5 GRACE BOGDANOVE: Sure. Yeah.

6 I mean, whether that's, you know, focusing on
7 improving that pension, or improving the wage rates,
8 or working on a shift differential, or whether
9 that's looking at other health-insurance plans --
10 right? -- whatever that is, absolutely.

11 If our members are able to get quality health
12 insurance through the State --

13 SENATOR RIVERA: No, not quality health
14 insurance, but guaranteed health care.

15 GRACE BOGDANOVE: Guaranteed health
16 insurance --

17 SENATOR RIVERA: There's a distinction here.

18 GRACE BOGDANOVE: -- right? -- then,
19 absolutely, it raises the bar.

20 Anything that raises the bar for our workers
21 allows us to get better for them.

22 SENATOR RIVERA: Thank you, Madam Chair.

23 SENATOR MAY: Thank you.

24 Anyone else?

25 Oh, Senator Serino.

1 SENATOR SERINO: Thank you.

2 William, your story really touched my heart.

3 We need more people like you, and like -- and
4 Tonya.

5 You know, during last year's testimony from
6 SEIU, we heard from a lot of the employees, that
7 they said they had to actually wear garbage bags to
8 work, which is so unacceptable.

9 We have to make sure that, you know, you have
10 the proper provisions, and you're adequately
11 addressing them.

12 And then, Grace, with your -- you spoke about
13 the apprenticeships.

14 How do you let people know about them?

15 Like, do they have to already be in the
16 health-care field, or do you offer some other
17 outreach?

18 Because I love the apprenticeship programs.
19 I think they're awesome.

20 GRACE BOGDANOVE: Yeah, for those specific
21 LPN apprenticeship programs, they were for in-house
22 CNA's to move forward to get their LPNs.

23 So it was all about the union members who are
24 already in-house, working as CNAs, going through
25 this program to become LPNs.

1 But there was plenty of, you know, outreach
2 we did within the community.

3 We wanted people to know that this program
4 existed, so that people would consider coming on as
5 CNAs, entry level, in that way, and then moving up
6 in the future.

7 SENATOR SERINO: Do you go into the schools,
8 too, to talk to the students?

9 GRACE BOGDANOVE: Yeah. Training fund,
10 I believe all of that would probably be in their
11 written testimony, so I will leave that to them.

12 And if there's any follow-up, I'll make sure
13 we get that information to you.

14 SENATOR SERINO: Great.

15 Thank you.

16 Thank you-all for what you do. I really
17 appreciate it.

18 And I can tell you guys have your heart and
19 soul in this, so thank you.

20 SENATOR MAY: Thank you.

21 Senator Benjamin, and then Senator Borello.

22 SENATOR BENJAMIN: Sure.

23 I also want to commend you-all on being here,
24 and your comments; and, William, your testimony was
25 very powerful for me.

1 I used to work on Wall Street, too, and left,
2 so I completely understand your sentiment.

3 Well, I have a question for you, actually.

4 In your testimony you mentioned that, you
5 know, things were fine before COVID.

6 And you mentioned, you know, it sounded like,
7 what I heard from you, I want to make sure I'm clear
8 on this, that the biggest issue for us to address is
9 sort of the safety around COVID, the PPE, et cetera,
10 infection-control plans, et cetera, more so than,
11 say, childcare issues, and some other factors.

12 So I just wanted to get your comment on that,
13 to make sure I'm clear on what I heard from your
14 testimony, and how you feel on the ground.

15 Because, I mean, sometimes, you know, we
16 might sit here and have our ideas about what people
17 need.

18 But you're on the ground, so I want to make
19 sure I'm clear on what I'm hearing from you.

20 WILLIAM ROE: Everyone's situation is
21 different, but there is a priority in terms of
22 safety.

23 Safety is first, that's the priority.

24 So, basically, in the beginning of COVID,
25 institutions and nursing homes, hospitals, they did

1 not meet the level of the concern of COVID.

2 You had workers, CNAs, nurses, buying their
3 own masks, because the masks and the gowns that the
4 facilities were giving were not worth it, and didn't
5 provide yourself enough coverage to feel safe in
6 that type of an environment.

7 So PPE is a high priority in the nursing home
8 or in the workplace setting.

9 Okay. Childcare, now, life changed during
10 COVID, because schools closed.

11 The school is closed, then you have to think
12 twice about what is going to happen to your kids.

13 They're going to be home.

14 Your schools really played a part in people's
15 lives because they don't have to have a babysitter
16 because the kids were in school.

17 By the time the parent would come home from
18 work, pick the kid up from school, you didn't need a
19 babysitter.

20 But being that the schools closed, childcare
21 became a high priority, and still is, because
22 parents are still reluctant to send their kids to
23 school because of the COVID pandemic.

24 So in terms of our priority, to answer your
25 question, I feel they both -- both PPEs and

1 childcare, they both hold probably the similar
2 weights in terms of what people need in their lives,
3 you know, in terms of your family and in terms of
4 the workplace environment.

5 SENATOR BENJAMIN: Well, let me just say --

6 I just only had that question.

7 -- thank you for the work that you do.

8 I'm honored to be here and hear you speak.

9 It gives me real, sort of, hope for humanity,
10 that you're out here doing this hard work.

11 You put yourselves on the line, and we owe
12 you a debt of gratitude.

13 And I know myself and our colleagues will do
14 everything we can to treat you appropriately,
15 because you did, and are continuing to do, God's
16 work on behalf of all of us.

17 Thank you.

18 SENATOR MAY: More than a T-shirt and a pen,
19 for sure.

20 Senator Borello.

21 SENATOR BORELLO: Well, I want to echo
22 everyone's sentiments, and thank you so much.

23 And, you know, in particular, when listening
24 to you, you know, staring 9/11 situation in the
25 face, making that amazing change in your life, and

1 then facing a pandemic, which, in the end, took more
2 lives of New Yorkers than 9/11 -- thank you.

3 Thank you-all for what you do, for being
4 frontline workers.

5 Grace, you know, I'm very familiar with 1199.
6 I've been to your office a few times. Worked hard
7 with your folks, including Peter DeJesus, to fight
8 back on the closure of a hospital in my district.

9 So thank you for all that you've done.

10 I just want to address the issue of, which
11 was brought up, roughly, 8 in 10 of the patients in
12 nursing homes are on Medicaid, and we've seen
13 nine consecutive years of rate cuts; the most
14 recent, the only state out of the 50 that actually
15 cut Medicaid reimbursements during the pandemic.

16 So we can talk about how amazing you folks
17 were, but, in the end, you know, that was continuing
18 to burden all of you, and to put more pressure and
19 stress on all of you, on top of the folks that
20 operate the facilities.

21 So my question is: Has the union stepped
22 forward to speak out against these cuts?

23 And I'm assuming the answer is yes.

24 But I'm just -- the advocacy, and the
25 understanding that this is not just impacting the

1 ownership. It's impacting every single one of you
2 folks that work hard every day, risked your lives,
3 to care for these -- for our most vulnerable
4 citizens.

5 GRACE BOGDANOVE: Absolutely. There should
6 be no cuts to funding for our nursing homes at all.

7 And, in fact, you know, we would appreciate a
8 little more funding.

9 SENATOR BORELLO: And I agree with you.

10 I mean, you know, we're seeing, last year we
11 passed some reforms to Medicaid non-emergency
12 transportation, which have yet to be implemented.

13 That's millions and millions of wasted
14 dollars in waste, fraud, and abuse that's occurring
15 in that Medicaid non-emergency transportation.

16 That's one that could be directed back to
17 supporting you folks, as opposed to, you know,
18 paying for what is, essentially, fraud that's
19 occurring on a rampant basis.

20 You know, we see it in my district every day.

21 So I would strongly suggest that we continue
22 to, you know, work towards that.

23 We have, certainly, the ability, since we're
24 already -- it's just -- it's a misdirection of where
25 those funds are going.

1 It's going to this -- to these type of
2 fraudulent situations.

3 And even our state comptroller said there's
4 billions, with a "b," every year in waste, fraud,
5 and abuse in our Medicaid system; yet we are cutting
6 reimbursements.

7 SENATOR MAY: Well, I want to thank you-all.

8 I have one more follow-up, which is, when we
9 talk about misdirection, you -- Grace, you mentioned
10 the salaries of some of the CEOs, and the money
11 spent on consultants, and everything.

12 Here you've got somebody with amazing
13 financial experience in addition to the nursing
14 experience.

15 Have you thought about worker co-ops?

16 Are there efforts to create actual
17 worker-owned facilities?

18 Has that ever been thought of, or tried here?

19 GRACE BOGDANOVE: It's interesting you should
20 mention that.

21 I know I've read a little bit about some kind
22 worker-agency co-ops that have succeeded elsewhere,
23 not in New York State.

24 So it's certainly something to look into.

25 SENATOR MAY: You've got all the skills

1 there, all the knowledge.

2 Okay. Well, again, thank you-all for the
3 amazing work that you do, and for your testimony.

4 It's been really enlightening.

5 I appreciate it.

6 GRACE BOGDANOVE: Thank you for having us.

7 SENATOR MAY: And I echo Senator Ramos, for
8 taking a whole day to come up here, from your work,
9 too.

10 So just a little update.

11 We had on the schedule to take a break at
12 12:00, but I would like us to do one more panel
13 because we haven't gotten that far through the
14 program.

15 So we're going to do Panel 5, and then we'll
16 take probably a little shorter break than we had
17 planned.

18 But -- so that's, Sarah Daly,
19 Michele O'Connor, and Doug Wissman.

20 We'll start asking fewer questions.

21 Don't be insulted if there aren't as many
22 questions, moving forward.

23 All right. We have Sarah Daly to start with.

24 SARAH DALY: Hello.

25 Good morning, and thank you again to

1 Senators May, Rivera, and Ramos for convening this
2 hearing.

3 My name is Sarah Daly, government relations
4 analyst at LeadingAge New York.

5 Many of you know that LeadingAge New York
6 represents over 400 not-for-profit and public
7 long-term-care and acute-care providers.

8 The providers we represent embody the full
9 continuum of services an individual may need as they
10 age.

11 On behalf of our membership, I thank you for
12 convening this hearing and for the opportunity to
13 provide testimony.

14 As has been discussed all morning, providers
15 across the long-term continuum are facing
16 extraordinary and unprecedented workforce challenges
17 that predate the COVID-19 pandemic.

18 A combination of the state's changing
19 demographics, inadequate reimbursement, competitive
20 labor markets, and regulatory requirements have
21 hindered recruitment and retention of quality
22 workers for many years.

23 Of course, COVID-19 has now exacerbated
24 existing staffing shortages and depleted provider
25 financial resources.

1 Our members report more severe workforce
2 shortages statewide than ever before.

3 They are trying every possible creative
4 strategy to recruit and retain staff, from signing
5 bonuses, to career-ladder programs of their own.

6 Still, they report dozens of open positions,
7 and few, if any, applicants at this point.

8 Of course, an important component of any
9 workforce conversation is wages.

10 New York's long-term-care providers cannot
11 raise wages to compete for workers because they are
12 vastly underpaid by their predominant payer,
13 Medicaid.

14 They have not received a Medicaid
15 reimburse -- Medicaid rate increase since 2007
16 despite rising costs, and have experienced deeper
17 cuts than any other health-care sector, year after
18 year.

19 The 64 million included in the 2021-22 state
20 budget for nursing home staffing is barely a third
21 of the 168 million in annual Medicaid cuts imposed
22 on nursing homes in 2020.

23 As Senator Borello touched on earlier,
24 New York was one of the only states in the entire
25 country that actually enacted Medicaid cuts during

1 the pandemic. Most other states did provide
2 increases of some kind.

3 The financial stress on long-term-care
4 providers has been further aggravated during the
5 COVID-19 pandemic by falling census figures,
6 extraordinary pandemic-related costs, and the
7 additional Medicaid cuts enacted in 2020.

8 Unfortunately, the State has not pursued
9 comprehensive and proactive investments for
10 regulatory reforms to address our aging population
11 and their needs.

12 Like many individuals who avoid planning for
13 their future long-term-care needs, New York has no
14 plan and has made no investment to address this
15 crisis.

16 Notwithstanding the demographic wave that is
17 already giving up -- driving up demand for services
18 and limiting the supply of workers for the past
19 several years, the State has focused its health-care
20 investments on the acute-care and primary-care
21 sectors, and its budget cuts on the long-term
22 post-acute-care sector.

23 We need resources to bring new workers into
24 the field and to enhance their compensation.

25 As many of our not-for-profit providers do

1 pay higher than minimum wage as it is, or would like
2 to pay even more, but they simply do not have the
3 resources to do so.

4 Ultimately, our not-for-profit members will
5 not continue to operate if they cannot safely staff
6 their facilities, and they will be forced to close
7 their doors or sell to for-profits.

8 We've seen this already.

9 Since March of 2020, the start of the
10 pandemic:

11 We have lost one not-for-profit nursing home
12 in Westchester;

13 Two upstate homes have announced fall
14 closures;

15 At least two are for sale in New York City,
16 as I believe was also mentioned earlier;

17 And several on Long Island have been sold or
18 are in sale negotiation;

19 An assisted-living facility that served
20 Medicaid beneficiaries closed in Western New York,
21 that is a member of ours. And another is in the
22 process.

23 A number of other nursing homes and
24 assisted-living providers are evaluating long-term
25 viability at this point, given the continuing

1 financial impacts of COVID-19 and the deficiencies
2 that were existing beforehand.

3 If New York is to ensure access to
4 high-quality care for a growing number of older
5 adults in our communities, we need to infuse
6 resources into the system, identify ways to attract
7 new workers, and implement reforms that enable
8 optimal use of a limited workforce.

9 As outlined in detail in our written
10 testimony, LeadingAge New York proposes a
11 multifaceted workforce plan that would include both,
12 substantial investment, and no-cost regulatory and
13 statutory reforms, to reduce barriers to their
14 recruitment, retention, and efficient deployment of
15 nursing home, assisted-living, and home care staff.
16 On the medication -- I know I'm running a little low
17 on time -- but on the medication technician issue,
18 LeadingAge New York does have a bill that we've
19 drafted for that.

20 And we believe it would be a great step in
21 the right direction to, again, enhance the career
22 ladder for CNAs, and help them see kind of an easier
23 step between CNA and LPN. It's a bit more tangible
24 for them to maybe wrap their minds around.

25 And also, of course, taking the stressors off

1 of the RNs and the LPNs themselves.

2 Unfortunately, right now, there are many LPN
3 vacancies.

4 So if we can perhaps just train our CNAs a
5 bit more, again, kind of showing them the way, we
6 believe that would be a big help.

7 If there's one point we wish to leave you
8 with from this testimony, it is that the legislature
9 must make long-term care its top priority in the
10 state budget for state fiscal year 2022-23.

11 A substantial and meaningful investment of
12 Medicaid and non-Medicaid dollars must be made in
13 long-term care that will enable material increase in
14 wages and associated benefits.

15 Thank you very much for your time.

16 SENATOR MAY: Thank you.

17 MICHELE O'CONNOR: Good morning,
18 Senators May, Rivera, and Ramos, and distinguished
19 members of the Senate Aging, Health, and Labor
20 committees.

21 My name is Michele O'Connor, and I am
22 the legislative and policy director for
23 Argentum New York.

24 Thank you for the opportunity to speak with
25 you today, to discuss workforce issues in

1 assisted-living residences and adult-care
2 facilities.

3 Argentum New York is the New York chapter of
4 Argentum, the largest national association
5 representing professionally managed senior living
6 communities. Argentum New York represents
7 75 communities across the state, serving over
8 7,500 residents.

9 The population is aging nationwide, and
10 New York is no exception.

11 The U.S. Census Bureau projects that by 2060,
12 1 in 5 Americans will be over the age of 65, and the
13 over-85 population will have tripled.

14 The National Investment Center for Seniors
15 Housing & Care estimates that, to take care of this
16 aging population, our country will need to have at
17 least 1.4 million senior caregivers by 2025, which
18 is right around the corner.

19 Currently, 3.2 million New Yorkers are over
20 65, and this population is growing faster than any
21 other age group in the state.

22 As more and more seniors are choosing options
23 that allow them to age in place with appropriate
24 supports and services, including residing in
25 assisted-living residences, supporting and expanding

1 the frontline health-care and senior caregiver
2 workforce has never been more critical.

3 Over the last 18 months, the pandemic has
4 presented providers with enumerable challenges as
5 they worked, and continue to work, around the clock
6 to provide high-quality care, supports, and services
7 to their residents while protecting them from
8 COVID-19, which exemplifies how crucial these
9 workers are in caring for our seniors.

10 One of the greatest challenges providers face
11 is adequate staffing. Repeated and numerous staff
12 furloughs due to COVID-positive tests and/or
13 exposure, childcare issues, has made it even more
14 difficult to meet the staffing needs of communities.

15 Additional staff has been required of every
16 assisted-living community in the state to meet the
17 infection-control protocols required by the
18 Department of Health, ensure safe visitation, and
19 conduct health screenings for all individuals
20 entering these communities.

21 Even as our providers offer additional hero
22 pay, childcare support, and transportation
23 assistance, they still struggle to ensure
24 appropriate staffing levels in their communities to
25 care for their residents; yet they meet these

1 challenges every day with no financial assistance
2 from the State and very little from the federal
3 government.

4 We have requested an allocation from funds
5 from New York -- from the funds New York received
6 from the American Rescue Plan Act to help offset the
7 tremendous financial losses our providers have
8 incurred as a result of responding to the pandemic.

9 To date, we have not heard that that
10 allocation will be forthcoming, despite the letter
11 of support sent to the commissioner from many of
12 you, which we really appreciate.

13 We will be requesting the legislature
14 provide fiscal relief to assisted-living- and
15 adult-care-facility providers in the upcoming
16 budget.

17 Through our consultation with Argentum
18 national, we know advocacy is ongoing on the federal
19 level to support senior caregiving workforce
20 strategies, including expanding and supporting
21 workforce development programs.

22 Identifying and modifying existing federal
23 programs within the Department of Health and the
24 Department of Labor that use evidence-based
25 approaches to increase earnings, and create

1 apprenticeships, that will keep local senior living
2 communities competitive so that they will attract
3 jobs.

4 Expand education training tracks.

5 Senior caregiving can be a long-term career
6 with job security.

7 Building and implementing competency-based
8 education pathways from high school to and through
9 community and technical colleges, to 4-year colleges
10 and universities, as appropriate, and offer loan
11 forgiveness for individuals entering the senior
12 caregiving profession.

13 New York created a new category of home
14 health aides known as "advanced home health aides,"
15 in 2016, which would have created such a pathway for
16 advancement.

17 However, there are a number of barriers,
18 including funding and regulatory requirements, that
19 have made the program extremely difficult to
20 implement.

21 Immigration reform is also important.

22 While training and education programs can
23 create a pipeline of competent caregivers, they
24 should be supplemented by a skills-based immigration
25 system that responds to the demand from growth

1 sectors for qualified individuals, to help address
2 the workforce shortages in critical occupations,
3 including senior living.

4 I'm just going to touch on a couple of other
5 state models.

6 Other states have developed programs that
7 encourage and build upon a senior caregiving
8 workforce that New York may want to replicate or
9 modify.

10 For example, California has a senior-care
11 workforce development program that includes
12 partnering schools, career centers, and vocational
13 schools with programs just relevant to senior
14 living.

15 The program also includes creative
16 recruitment strategies that provide additional
17 training and opportunities to advance in the senior
18 caregiving arena.

19 Also under development is a community
20 college, trade school, seniors care certificate, in
21 a partnership with the nursing program that includes
22 rotation in assisted-living residences.

23 Caring for our seniors is of the utmost
24 importance as our population continues to age, and
25 it is imperative that we focus on investing in,

1 expanding, and supporting the senior caregiving
2 workforce.

3 Thank you.

4 SENATOR MAY: Thank you.

5 DOUG WISSMAN: Thank you, Senator May,
6 Rivera, and Ramos.

7 My name is Doug Wissman. I am a board member
8 of Greater New York Health Care Facilities
9 Association; and a CFO of a large facility in
10 Queens, New York; and I also am a trustee for the
11 1199 Welfare and Benefit funds.

12 So I've been in this business for 27 years.

13 And over the last two decades, there's been
14 numerous funding initiatives to help the facilities
15 maintain their staffing levels; from health-care
16 retention and recruitment add-ons; to grant
17 opportunities; to funds, that we work directly with
18 1199, to provide training and development of staff.

19 We -- due to these strategies, we've been
20 able to maintain our staffing levels and provide
21 care for the patients in New York.

22 Unfortunately, that all changed during COVID.

23 Overnight, we went from being fully staffed,
24 to having a situation where almost all of society
25 shut down and was locked up in their homes, except

1 for our workers and other essential workers.

2 Many of our staff had comorbidities
3 themselves, and elected not to come back to work.

4 Our staff was already aging, and many of them
5 decided to retire early because of the fear that
6 they had.

7 A tremendous amount of our staff was just
8 plain afraid to come to work. They have children at
9 home. They care for elderly at home.

10 And it presented a huge problem for the
11 entire industry.

12 The staff was afraid to get on the trains,
13 the buses, or whatever transportation they utilized
14 to get to work.

15 Fortunately, we were able to maintain
16 staffing levels where it was safe for the residents.

17 Our census was impacted greatly by the fact
18 that many elected procedures in hospitals were
19 delayed. Patients were -- or, potential admissions
20 were not leaving their homes. People were not
21 falling. People were not getting the flu.

22 So our census dropped dramatically.

23 That was, somehow, how we were able to
24 maintain our staffing levels.

25 Now, as we move forward, we're starting to

1 see our census improve. Unfortunately, many of the
2 staff are not coming back.

3 There are shortages of LPNs and RNs, and
4 even CNAs in certain sections of the state.

5 It's not a one-size-fits-all.

6 There are CNAs available for certain
7 shifts. For weekends, it's a problem.

8 You know, there's staff -- we're a
9 24/7 business.

10 It's not always the same that there's CNAs
11 or nursing staff that are willing to work the shifts
12 that we need.

13 And in order for us to retain and recruit
14 staff, we need funding.

15 We have programs where we develop geri aides
16 into CNAs, and we pay them while they attend
17 school to become CNAs. We sponsor CNAs to become
18 LPNs. These programs all require funding.

19 And the majority of the industry is suffering
20 catastrophic losses at this point.

21 Our facilities are in dramatic danger of not
22 surviving.

23 The censuses are historically low.

24 They're starting to creep back, and I am
25 concerned, that as our census improves, that there's

1 not going to be enough staff to take care of the
2 patients, in which case, many facilities will be
3 forced not to admit patients, and there could be an
4 issue with access.

5 We are requesting, that along with additional
6 funding, that the State really looks at all these
7 programs that were presented today, to really expand
8 the workforce, collectively, with the stakeholders,
9 with 1199, the collaborative approach with the
10 union, with the associations, so that we, as
11 New Yorkers, can go forward in the future.

12 These facilities are our infrastructure, and
13 it's key that we maintain our infrastructure as our
14 population ages so that we can have places where our
15 citizens can be taken care of.

16 Thank you.

17 SENATOR MAY: Okay. Thank you.

18 So we heard from the previous panel about
19 high executive salaries, and the expenditures on
20 consultants coming in to help keep unions out, or
21 whatever.

22 I'm wondering if -- how much of your budget
23 actually goes directly to aide care for the
24 residents?

25 DOUG WISSMAN: We -- our facility currently

1 meets all the requirements that are in this budget;
2 meaning, we are already spending well in excess of
3 70 percent on our direct patient care.

4 In addition, we exceed the 40 percent on
5 direct-facing care.

6 That, to me, is not necessarily the issue.

7 The issue here is the flexibility within the
8 budget that allows us to spend where we need to
9 spend money.

10 And acknowledging that there is a shortfall
11 in the funding, there is no flexibility.

12 I can tell you that, depending on the acuity
13 level of our different units, we staff it
14 differently.

15 And if we look at it as an average, we're
16 meeting these requirements with the number of hours.

17 But, on certain units, I may need more
18 CNAs, I may need more RNs, I may need more
19 LPNs.

20 To basically have language that kind of puts
21 us in a box where we're not able to adjust, and
22 there may be a facility that has a disproportionate
23 number of patients that require different level of
24 care, where they might not fall into those
25 regulatory numbers, that could present a problem in

1 the future.

2 The other issue is, right now, I'm in major
3 competition with every other building, with every
4 hospital, with every doctor's office.

5 There are no LPNs and RNs.

6 It takes a special person to work in the
7 long-term-care industry.

8 And there are many RNs and LPNs that find
9 it much easier to go and work for a hospital, where
10 they get three 12-hour shifts; for an agency, where
11 they can dictate the hours that they want to work;
12 or even a doctor's office where it's 9 to 5, 8 to 4.

13 Those are the challenges we face.

14 SENATOR MAY: Okay. Thank you.

15 And you mentioned about needing to put
16 different kinds of staff in different places.

17 I'm wondering about the long-term-care
18 residents who are maybe not classified as needing
19 acute care, or whatever, do they tend to get the
20 least of the, say, RN time, and that sort of thing;
21 whereas, a post-op recovery may get --

22 DOUG WISSMAN: Again, there are different
23 clinical issues, where different patients have
24 clinical needs, where it could require a nurse for
25 wound care, CNA for behavioral issues.

1 I am not personally a clinician, but those
2 are the issues that we see on different floors.

3 If there's a high acuity for patients who are
4 receiving wound care, which could be long-term
5 patients.

6 Behavioral psych patients require direct
7 hands-on CNA hours.

8 There are patients, for example, Lewy body
9 dementia which may require one-on-one.

10 It's very different, depending on the acuity
11 of the patient.

12 SENATOR MAY: Okay.

13 Well, thank you so much for the work you do,
14 and for your testimony.

15 I will see if we have other questions.

16 SENATOR BENJAMIN: I have one quick question.

17 SENATOR MAY: Okay. Senator Benjamin.

18 SENATOR BENJAMIN: I will be very quick.

19 Doug, you made some interesting points around
20 flexibility, which I generally think is logical.

21 I guess my question, my concern is, how is
22 there -- how do we ensure, within some flexibility
23 that might be necessary for a certain facility, that
24 there's accountability towards ensuring that the
25 appropriate resources are going towards care for

1 residents, while having that flexibility?

2 Do you have a thought --

3 DOUG WISSMAN: We're in a very highly
4 regulated industry.

5 We have annual surveys.

6 We have a 5-star rating, which we submit
7 quarterly MDSs, which measure acuity of patients.

8 There's a lot of data out there that can
9 substantiate outcomes without tying us to certain
10 metrics.

11 And I know my building has been 5 stars since
12 the day the 5-star rating was initiated.

13 And we take a lot of pride in providing the
14 appropriate care for our patients.

15 SENATOR MAY: Any questions?

16 Senator Serino.

17 SENATOR SERINO: Hi, everybody.

18 I just want to say thank you for being here.

19 And, you know, I agree with you, it's not
20 one-size-fits-all. You don't know who you're going
21 to have in the facilities.

22 And I think that that really puts a strangle
23 on you because, like you said, Doug, you're a 5-star
24 facility.

25 So I just -- basically, I didn't have a

1 question today. I just wanted to say thank you for
2 being here, and your testimony, and for all that you
3 do.

4 SENATOR MAY: Let me follow up with one final
5 question, which was about the LPN vacancies.

6 Was that you who brought that up?

7 SARAH DALY: Yes. Yep.

8 SENATOR MAY: Do you have a sense of how
9 New York compares to other states in terms of that
10 kind of staffing shortage?

11 SARAH DALY: I don't have a sense of that,
12 but we could certainly look into it more closely for
13 you.

14 I mean, I get the impression that, certainly,
15 New York is not alone in facing this demographic
16 shift. We all know that millennial generation is
17 having fewer children. And, you know, this shift is
18 kind of longstanding. Right?

19 But I can certainly -- we can certainly look
20 into that for you.

21 We just know our members have had LPN
22 openings for -- again, before the pandemic that have
23 gone unfilled.

24 And so, for us, a medication technician role
25 could take some of the stressors off of RNs and

1 LPNs that are there, and also encourage CNAs to
2 get a sense of what more responsibility might look
3 and feel like.

4 I'd also like to note that assisted living
5 doesn't have medication technicians currently.

6 And Michele might be able to elaborate on
7 this.

8 They can assist residents with
9 self-administering medications, but they can't
10 administer non-invasive medications themselves.

11 But med techs do currently exist in the OPWDD
12 settings. And training is already available for
13 that setting, that could easily be used for nursing
14 homes.

15 And we've seen a lot of success with this
16 model in other states, such as Maine. They've had
17 med techs for, I think, over 10 years now, and
18 they've seen great success with it.

19 So we just think it's time for New York to
20 really start thinking more innovatively in this way.

21 SENATOR MAY: So there are -- are there
22 workers who are classified as med techs, but they do
23 something different in the assisted-living
24 facilities?

25 SARAH DALY: No, there's not an actual med

1 tech role in assisted living.

2 Michele, do you want to elaborate on that?

3 MICHELE O'CONNOR: You know, we don't have a
4 "med tech" category at all.

5 Medication, as Sarah said, can only be
6 administered by an aide. Like they can hand it to
7 the person, but it's like, a self-administration.
8 And there's like six steps they have to go through
9 to do so.

10 LPNs and RNs are the ones that can
11 administer. And then it's usually only in like in
12 an EALR setting, which is an "enhanced
13 assisted-living residence," because there's some
14 barriers, that the basic ALRs don't really employ
15 nurses necessarily to -- that can at least work in
16 their nursing capacity.

17 So there's a little bit of a -- like I said,
18 barrier, in terms of that.

19 Which is one of the things -- like, that was
20 one of the great things about the "advanced home
21 health aide" category, because they would have been
22 allowed to -- well, they would -- they are allowed
23 to administer medication, you know, after completing
24 certain training.

25 But as I said, we can't -- we are having a

1 lot of trouble getting that off the ground.

2 SENATOR MAY: So the category exists, but
3 there are no people who actually have that?

4 MICHELE O'CONNOR: There's a lot barriers to
5 it.

6 Funding is one of them.

7 Just getting a training program that, you
8 know, meets all of the regulatory requirements.

9 There's also some educational requirements
10 that we kind of thought were a little greater than
11 necessary for this category of aide.

12 But...

13 SENATOR MAY: So it's a category that exists,
14 but we don't have any mechanism for having people
15 actually --

16 MICHELE O'CONNOR: Yeah, we don't have a --
17 it's not off the ground yet.

18 SENATOR MAY: Yep, okay. All right.

19 That's helpful to know.

20 Thank you very much.

21 Thank you for your testimony, and for the
22 work you do.

23 SARAH DALY: Thank you.

24 MICHELE O'CONNOR: Thank you.

25 SENATOR MAY: All right. We're going to take

1 a 20-minute break here, and come back for our last
2 few panels on the nursing and assisted-living realm,
3 and then we'll move on to the home health area.

4 (A recess commenced.)

5 (The public hearing reconvened.)

6 SENATOR MAY: All right. We're on.

7 Okay. Thanks.

8 Welcome back, everybody.

9 We're on the sixth panel of our hearing, and
10 that's Dallas Nelson and Diedre Gilkes.

11 I'm not sure I got that pronunciation right.

12 I also want to mention a switch on Panel 8.

13 Agnes McCray, who was scheduled to testify a
14 lot later, she came in from Syracuse on a train at
15 5:30 this morning, and she's got a 4:00 train to
16 catch home.

17 So we're putting her on Panel 8.

18 But for Panel 6, we'll start with
19 Dallas Nelson.

20 DALLAS NELSON, MD: Hi.

21 SENATOR MAY: Hi.

22 DALLAS NELSON, MD: I'm Dallas Nelson.

23 Good afternoon.

24 And I love talking to you while you're well
25 hydrated and nourished.

1 But thank you for the invitation.

2 I'm from Rochester, New York, but I'm here
3 representing New York Medical Directors Association.

4 That's an organization that's goal is to
5 educate and advocate for long-term-care medical
6 directors and medical providers.

7 I also direct a group that serves as primary
8 care for 15 nursing homes and 33 senior living
9 facilities.

10 I am the medical director of two nursing
11 homes, two assisted livings. And one of those
12 nursing homes served as a COVID-positive unit for
13 the state.

14 I also have primary-care patients across the
15 continuum of care of long-term care.

16 And I am a granddaughter of a nursing home
17 resident.

18 So I wanted to let you know that an engaged,
19 knowledgeable medical director can genuinely improve
20 a facility's care by applying science to care.

21 And one of the things we medical directors
22 are supposed to be experts in is quality assurance
23 and process improvement (QAPI).

24 And QAPI teaches us that the systems
25 generally create the outcomes they are designed to

1 produce.

2 The long-term-care system is currently
3 producing a severe shortage of frontline workers;
4 namely, nurses and CNAs.

5 Before COVID, the staffing levels in some of
6 my facilities was below what was needed to render
7 proper care.

8 The staff was chronically stressed, and --
9 because they were covering more work than they could
10 possibly do. The long-term-care industry was
11 plagued by frequent turnover of staff and
12 leadership.

13 Then COVID-19 made the nursing homes the
14 center of the hotspots of the most serious outcomes
15 of the pandemic.

16 And each surge of the pandemic decreased
17 staffing further in my nursing homes, further
18 worsening our ability to respond to the pandemic and
19 make the residents safe.

20 The rate of death of nursing home workers was
21 amongst the most dangerous jobs in America.

22 CMS, Senator Mayer, said that it was
23 80 deaths per 100,000 FTEs, which is higher than
24 the logging industry.

25 Frankly, the long-term-care facilities became

1 an environment of overwork, fear, and danger.

2 I can write the most beautiful
3 state-of-the-art medical plan for my patients, but
4 if nobody is there to execute them, it does not
5 matter.

6 As a society, we are paying in human
7 suffering for the current long-term-care system.

8 Our parents and grandparents are suffering
9 from staff shortages, and as a result, there's a
10 greater incidence of falls with fracture; death,
11 secondary to failure to thrive; and skin breakdown.

12 The problems are not a result of laziness or
13 greed.

14 The quality improvement teaches us that
15 searching for bad apples is not necessarily -- will
16 not necessarily result in widespread positive
17 change.

18 More effectively, we need to bring together
19 people with deep knowledge of the system, frontline
20 workers, and those with -- who control the resources
21 and regulations, to study the root causes of the
22 problem, and design interventions to fix the system.

23 The pandemic highlighted how intertwined all
24 the levels of health care are.

25 We need patients to move from the hospital to

1 the nursing home, back to their assisted living, and
2 home; and vice versa.

3 The -- each level of the health-care system
4 is needed to serve the entire complement of
5 vulnerable people, and they are all competing for
6 similar finite pool of resources.

7 The New York Medical Directors Association
8 felt that The Reimagining Long-Term-Care Task Force
9 was a good first step in that direction.

10 It may be too late for that bill, but we
11 would like further legislation to spur on the effort
12 to start to redesign the system of long-term care.

13 We know this can be done.

14 We also know that we can have a collaborative
15 relationship with government.

16 The New York -- sorry, the Colorado Medical
17 Directors Association regularly meets with their
18 department of health, to work to fix their
19 long-term-care system.

20 And we would hope to have a collaborative
21 relationship with our Department of Health.

22 Assisted livings need supports to be able to
23 respond to infectious outbreaks, which currently do
24 not exist.

25 And we -- our hope is that all the

1 stakeholders responsible for the care of the
2 vulnerable elderly will work together to
3 collaboratively improve the system.

4 Thank you.

5 SENATOR MAY: Thank you.

6 I don't want to mispronounce your name again,
7 so I will let you introduce yourself.

8 DIEDRE GILKES, RN: Hi. My name is
9 Diedre Gilkes. I'm a registered nurse. I'm
10 presently employed at Rutland Nursing Home, which is
11 part of Kingsbrook Jewish Medical Center.

12 I'll just tell you a little bit about myself.

13 I was a CNA -- I started out as a CNA at the
14 same nursing home, and worked my way up to become an
15 RN.

16 I went part-time, so it took a little longer
17 than the person who would generally go full-time.

18 With me is my daughter, up there, she's 12,
19 Gabrielle.

20 And I brought her here to see, you know, what
21 it is about; not just, you know, money buying you
22 this or that, you know?

23 So the problem we're having now is,
24 Rutland Nursing Home has about 446 beds, including
25 an acute-care vent unit of 30 beds, an acute

1 step-down with 34 beds, a pediatric unit, and rehab
2 subacute, and several regular long-term units.

3 Staffing has been a chronic problem in
4 nursing homes and long-term-care facilities for many
5 years.

6 COVID has just opened up what has been long
7 ago been happening. Okay?

8 At Rutland, for example, the RN staffing in
9 our acute vent and step-down unit has worsened, and
10 there are fewer RNs assigned to those units, and
11 I'll explain.

12 For 29 vent units, you have only one RN, with
13 two LPNs. That's like a disaster waiting to
14 happen.

15 These are acute patients. They came from --
16 directly from the hospital to us, and some of them
17 are unstable.

18 Sometimes, the facility, they look at just
19 numbers, not acuity of the patient.

20 And we are burnt out, the nurses.

21 In addition, on many of our long-term
22 resident units, there are no RNs assigned to
23 provide direct patient care.

24 They are staffed entirely by LPNs and aides
25 which an RN manager oversee the direct care.

1 The reductions in RN time for both regular
2 long-term residents and patients on the acute unit
3 impacts the quality of care, and contributes to
4 staff burnout and turnover.

5 The situation we face during the worst of the
6 pandemic made staffing the resident care worse.

7 Many staff were exposed to the virus and
8 became sickened, and others quit or retired because
9 of the horrific working conditions we faced.

10 We believe the legislature should consider
11 the following measures to improve recruitment and
12 retention of staffing in our nursing home, and to
13 create a more stable workforce to provide care for
14 an increasing aged population:

15 The new nursing home staffing law is a good
16 start, but it does not go far enough.

17 The new law sets minimum of 3.5 hours of
18 total nursing care, including RNs, LPNs, and
19 aides, of which at least 2.2 hours must be nursing
20 aides, and 1.1 hours RNs or LPNs.

21 Many nursing homes are already meeting this
22 minimum standard, and it does not set a minimum
23 number of registered nurse hours per patient, and
24 I'll give you an example.

25 On Friday I had 47 patients, with 3 nurses,

1 including myself.

2 I'm charging 47 patients, auxillary staff.

3 I have to document. I have to discharge. Do
4 care plans.

5 It's not enough time, and it's too much.

6 We think that the legislature should amend
7 this law to phase in higher staffing requirements in
8 stages, with a goal of four, to 1 hours of total
9 nursing care, including at least 0.75 hours of
10 RN time per resident day.

11 RNs are very important to assessing
12 patients, implementing care plans, and ensuring that
13 infection-control protocols are fully implemented to
14 protect residents and staff.

15 In addition, it is important to establish
16 separate direct nursing to patient ratios for the
17 acute-care units where residents are permanently
18 vented or under more intensive care.

19 These acute-care specialty units should not
20 be included in minimum nursing hours calculations
21 for the residents on the regular long-term floors.

22 Improve staff working.

23 Salaries and working condition in the nursing
24 home industries are worse than in hospitals and
25 other Article 28 facilities.

1 This a major contributing factor in the high
2 turnover and staff burnout.

3 To address this issue, the legislature should
4 consider measures that require or incentivize
5 employers to meet local, regional, or statewide
6 benchmarks for pay and health and pension benefits.

7 In addition, the legislature should consider
8 enacting legislation to mandate that all employers
9 create active committees in all nursing homes, that
10 give the workers a direct say in establishing
11 staffing plans, infection control, and other
12 workplace safety policies and general work
13 conditions.

14 I'm not done, but time is up.

15 SENATOR MAY: Time is up, but thank you so
16 much.

17 Thank you, to both of you, for your
18 testimony.

19 I wanted to go a little deeper into something
20 you said, about how the facilities look at just
21 numbers and not the acuity of the patient.

22 I think that was --

23 DIEDRE GILKES, RN: Yes. That's one of my
24 biggest fights pretty much every day, because
25 they'll say, Okay, you have three nurses, and this

1 is what the State is okay with.

2 Therefore, they're not penalized because we
3 give you the minimum what the State says is
4 required.

5 But the acuity is much higher. You know, we
6 need more staff. It's just what it is.

7 We need a law, which recently passed, but
8 they need mostly for nursing homes to say, okay, as
9 an RN, I have 10 patients per nurse, not 20 patients
10 per nurse.

11 How much can I give to that patient?

12 And these are patients that are, you and I,
13 that have aged, that have retired, that are now in
14 nursing homes, that had lives that you and I lived,
15 you know, and not just an old person in the bed,
16 or -- it's somebody's mother, grandmother, aunt,
17 uncle.

18 And we can't just look at them as numbers.

19 And that's what I've been advocating and
20 fighting for pretty much every day.

21 Every day.

22 SENATOR MAY: Right.

23 I hear that, and I appreciate it.

24 DIEDRE GILKES, RN: So we need ratios. We
25 need ratios to nurses, just as what they have in the

1 hospital, 6-to-1.

2 I moonlight at many places.

3 In the hospitals, I have six patients to
4 one nurse.

5 In the nursing home, I have 20 patients to
6 1 nurse. Sometimes you have 40 patients to 1 LPN.

7 It's impossible to direct good care; good,
8 quality care.

9 It's not -- they're not getting it, period.

10 They're not.

11 SENATOR MAY: Judging from your testimony, it
12 sounds like the nurses often spend a lot of their
13 time managing staff rather than on direct care.

14 Would you say that's true?

15 And are they the right people to be doing --

16 DIEDRE GILKES, RN: When you say "managing
17 staff," what do you mean?

18 SENATOR MAY: Well, I'm just taking from what
19 you said, that the nurses would be deciding --

20 DIEDRE GILKES, RN: No. I'm saying, if
21 I have 20 patients, how much care can I deliver, you
22 know, safely with 20 patients?

23 It's too many patients.

24 SENATOR MAY: But you're not then supervising
25 CNAs, or --

1 DIEDRE GILKES, RN: I'm still doing that.

2 I still have to make sure they do what they
3 have to do.

4 I do the assignments.

5 So I'm the nurse in charge. I still have
6 20 patients. I have to do the assignments for the
7 CNAs and the LPNs. And then I have an assignment
8 for myself also.

9 SENATOR MAY: See, that's what I was
10 wondering.

11 DIEDRE GILKES, RN: Oh. Okay.

12 SENATOR MAY: How much of your time goes to
13 making those assignments, for example?

14 DIEDRE GILKES, RN: It's a challenge every
15 day.

16 SENATOR MAY: Okay.

17 I have some other questions, but I would like
18 to see if anyone else has any?

19 SENATOR MAYER: So, first place, I want to
20 thank both of you, from different perspectives,
21 because your focus is on the care.

22 And it's so appreciated by me, and I think
23 those of us who all experienced COVID, that your
24 focus is on the patients.

25 I really do appreciate that you are talking

1 about that in such a serious way, both of you.

2 Doctor, I would like to ask you, you gave me
3 an example of states where there is regular
4 conversation between medical directors of facilities
5 and the state Department of Health.

6 Has there been any of that here?

7 DALLAS NELSON, MD: Has there been here?

8 SENATOR MAYER: Here in New York.

9 DALLAS NELSON, MD: We have been privileged
10 to have intermittent presentations from the State at
11 our meeting.

12 But we don't have collaborative
13 sit-at-the-table, sort of, discussions on how to
14 manage those, which was very evident throughout the
15 pandemic.

16 Many regulations rolled out very fast, and
17 many of them were, if I -- I was, like, Do they know
18 that's not possible, you know, to do? such as, the
19 twice a week testing.

20 We were getting the results about 14 days
21 after we got the first one. And we had people
22 working, positive, but we didn't know because the
23 test -- we didn't have the resources to implement
24 the policy.

25 SENATOR MAYER: And not to focus exclusively

1 on these rules, but the rules came out without input
2 from you as medical directors; correct?

3 DALLAS NELSON, MD: That's correct.

4 And usually on Sunday night, about midnight.

5 SENATOR MAYER: We all lived through it, too,
6 because our families had to experience the
7 consequences.

8 But thank you for that.

9 And then, on the nursing side, you gave the
10 example, in a vent unit --

11 DIEDRE GILKES, RN: Yes.

12 SENATOR MAYER: -- right?

13 Are these --

14 DIEDRE GILKES, RN: Ventilators.

15 SENATOR MAYER: -- yeah, long-term vent
16 patients, or post-COVID vent, or a mixture?

17 DIEDRE GILKES, RN: Long term.

18 So they might be coded on in the hospital,
19 and they brought to us as vent patients, yes.

20 So some are stable, some are very unstable;
21 but the hospital cannot keep them anymore, so they
22 come to us.

23 SENATOR MAYER: And they're not -- and they
24 cannot go home?

25 DIEDRE GILKES, RN: They cannot go home.

1 SENATOR MAYER: So 29 patients with 1 RN.

2 DIEDRE GILKES, RN: One RN, sometimes,
3 with -- one RN and two LPNs.

4 SENATOR MAYER: Is that a night-shift ratio?

5 DIEDRE GILKES, RN: Sometimes night-shift
6 ratios, yes.

7 And they're severely short? Yes. Big time.

8 SENATOR MAYER: So you are a member of
9 NYSNA --

10 DIEDRE GILKES, RN: Yes, I am.

11 SENATOR MAYER: -- correct?

12 And NYSNA has a collective bargaining
13 agreement --

14 DIEDRE GILKES, RN: Yes --

15 SENATOR MAYER: -- [indiscernible]?

16 DIEDRE GILKES, RN: Yes.

17 SENATOR MAYER: Does it have any ratio --

18 DIEDRE GILKES, RN: There's a -- yes, there's
19 a ratio, at least, I believe 4 RNs-to-1 LPNs.

20 Sometimes it does not occur.

21 SENATOR MAYER: I see.

22 DIEDRE GILKES, RN: I am mostly from the
23 subacute rehab.

24 So people that do like the knee surgery in
25 the hospital, they would come to us. And then we

1 would, you know, give them the rehab, and so forth,
2 and then send them home.

3 So the turnover is pretty fast.

4 And some of these patients also have COPD,
5 they have other issues, other than the knee surgery
6 that they may come in from.

7 So they are -- some of them are unstable --
8 pretty unstable. Respiratory issues, in a heart
9 beat, they're coding, and so forth.

10 SENATOR MAYER: And of your colleagues that
11 work with you, other nurses and CNAs and others,
12 LPNs, approximately how many became
13 COVID-positive -- do you know? -- in your facility?

14 DIEDRE GILKES, RN: Pretty much, I would say
15 90 percent.

16 I was one of them.

17 SENATOR MAYER: 90 percent?

18 SENATOR RIVERA: Nine zero?

19 DIEDRE GILKES, RN: Of the staff, yes.

20 A lot of us got sick.

21 Because, before COVID hit, apparently, it was
22 around. We didn't have masks on.

23 I was -- for one, I was giving medication.
24 The patient coughed. Not knowing he had COVID, we
25 thought it was the flu symptoms.

1 We tested him for the flu.

2 Turned out it was COVID, and I caught it, and
3 it just spiraled down right then.

4 I was out, and I came back, and it was just
5 horrible. It was a horrible experience, and I'll
6 never forget it.

7 SENATOR MAYER: I'm so sorry.

8 DIEDRE GILKES, RN: We lost so many patients,
9 too. So many.

10 It's nothing like what you see on the
11 television. Nothing.

12 Nothing.

13 SENATOR MAYER: Well, thank you for sharing,
14 because we do know how terrible it was.

15 We don't think it's [indiscernible].

16 DIEDRE GILKES, RN: I remember my husband
17 saying, Are you going back to work? Do not go back
18 to work.

19 I was, like, I have to go back. Who's going
20 to do the work?

21 You know?

22 Even my daughter, she was crying, "Mommy,
23 don't go back," but I had to.

24 SENATOR MAYER: Oh, I'm so sorry.

25 DIEDRE GILKES, RN: You know, somebody has to

1 do it.

2 SENATOR MAYER: Thank you for coming.

3 Thank you for what you've done.

4 Both of you, thank you for what you've done.

5 And there's consequences to all the sacrifice
6 you made, and we have to make sure we address them.

7 So thank you for being here.

8 SENATOR MAY: Thank you.

9 We're so glad that you're here. We're so
10 glad your daughter has her mother.

11 And for the work that both of you do.

12 Let me ask a couple of brief questions.

13 One of them is, you said, you started as a
14 CNA.

15 DIEDRE GILKES, RN: Yes, I did.

16 SENATOR MAY: And now you're an RN.

17 Are there ways that the State can help people
18 make that transition, develop from CNA to RN?

19 DIEDRE GILKES, RN: Okay, with my -- it's
20 hospital and nursing home [indiscernible] together.

21 But at the nursing home, we have two units.
22 We have NYSANA and 1199.

23 So 1199 has this program, where they are now
24 doing, where the CNAs are upgrading, which
25 presently have them in school, and they're doing

1 their LPNs.

2 So, hopefully, we're hoping, that when
3 they've completed, that they'll come and give back
4 to the facility. And that's what we're hoping for.

5 So they do have that, 1199 has that program.

6 NYSNA, I'm not sure.

7 But I did that on my own, though. I just
8 went back to school and just did what I had to do.

9 SENATOR MAY: Good for you.

10 Fantastic.

11 And then, Doctor, I wanted to ask you about
12 the input issue that you raised, about being able to
13 meet with the Department of Health, for example, and
14 have them hear your input about these things.

15 The -- is there nothing like that now in
16 New York State?

17 I'm glad that Colorado has a model, but it's
18 startling.

19 DALLAS NELSON, MD: Yeah, right, Colorado has
20 a journal club, and they all get together and learn
21 the state-of-the-art and geriatric care together.

22 I lectured some of their state DOH surveyors
23 in Colorado.

24 But we don't have that sort of dialogue.

25 As geriatric medicine experts, and experts in

1 long-term care, we would love to have just a
2 dialogue about the application of different
3 regulations, the effects of those, what would
4 incentivize that sort of the best practice in our
5 industry, and what it's like, you know, on the
6 ground.

7 We really -- medical directors, you know, we
8 don't have jobs if the facilities don't exist.

9 But we're primarily there for the patients,
10 and really want to advocate for them getting good
11 care.

12 And it's hard to do.

13 SENATOR MAY: Okay.

14 And, finally, I do have a bill to try to
15 incentivize more people to go into geriatrics.

16 But I don't know if you have ideas about how
17 we get -- I know there is a crisis, like all these
18 other workforce crises we're talking about, in
19 people specializing in geriatrics, either at the
20 nursing or the physician level?

21 DALLAS NELSON, MD: Uh-huh. yeah, I mean,
22 geriatrics, as a medical discipline, is not
23 considered real medicine.

24 I don't know how -- it's reputationally
25 difficult, but I love, love, taking care of these

1 patients.

2 But it's one of the few specialties that you
3 can train longer and get paid less in.

4 So it's hard to attract people into a field
5 with -- that is, number one, not respected because
6 of ageism in society; and then remunerated more
7 poorly; and works in conditions in which you can
8 write orders, and they will not be executed due to
9 staffing shortages.

10 You know, that is a very, very disturbing
11 thing for a doctor to go through. And you have a
12 very hard time keeping doctors in a situation where
13 they cannot render good care.

14 SENATOR MAY: Well, as somebody who used to
15 teach at the college level, I'm very familiar with
16 the training years and earning less.

17 But can you just take -- we have one minute
18 left -- and describe what "geriatrics" is, for
19 someone like Gabrielle, for, potentially?

20 When I heard about what geriatricians do,
21 it's actually a really an exciting field,
22 potentially.

23 DALLAS NELSON, MD: Oh, geriatrics, I love
24 geriatrics, because I get to take care of complex
25 patients. Right? And I must balance their multiple

1 comorbidities to -- the primary goal is that they do
2 well, feel well.

3 So it's very patient-centered, it's very
4 individualized.

5 You can't apply all the guidelines to every
6 patient, or you'll hurt them, because they're so
7 complex, that all the guidelines conflict.

8 And you also have the opportunity to listen
9 to them more, and work to hone their care to what
10 they want, and what they want out of the medical
11 system.

12 There's nothing cookie-cutter about the
13 medicine that I practice.

14 And it's very rewarding to be with people
15 when they need you so much.

16 SENATOR MAY: And you're looking at their
17 medical situation, but also their social situation,
18 and their family situation. Sort of, there are so
19 many dimensions to it.

20 DALLAS NELSON, MD: Yes. It's a very
21 person-centered care, and individualization of the
22 care is very important.

23 So you need to know the medicine so that you
24 can apply it very carefully to this very vulnerable
25 population.

1 SENATOR MAY: Thank you for that.

2 We want to lift up geriatrics as much as
3 possible.

4 Anyone who is listening, think about going
5 into this field. It's an important one.

6 Thank you, both, for your important work, and
7 for your testimony.

8 DALLAS NELSON, MD: Thank you.

9 DIEDRE GILKES, RN: Thank you for having us.

10 SENATOR MAY: All right. Panel 7 is
11 Hannah Diamond, Maria Alvarez, and Lindsay Heckler.

12 And we'll go in that order.

13 Hannah, if you want to start?

14 HANNAH DIAMOND: I want to thank the
15 standing committees on Aging, Health, and Labor
16 for hosting today's hearing on the nursing home,
17 assisted-living, and home care workforce in
18 New York State.

19 My name is Hannah Diamond. I am the state
20 policy advocacy specialist at PHI, a New York-based
21 national non-profit organization that has been the
22 nation's leading expert on the direct-care workforce
23 for three decades.

24 PHI works to transform elder care and
25 disability services by promoting quality direct-care

1 jobs as the foundation for quality care.

2 My testimony today focuses on the nearly
3 530,000 direct-care workers, including nursing
4 assistants, home health aides, and personal care
5 aides who assist New Yorkers across long-term-care
6 settings.

7 Action is critically needed to support the
8 current workforce, recruit new job seekers to
9 strengthen the pipeline into the sector, and to help
10 ensure that we never again reach such a crisis point
11 as we did during the pandemic.

12 To that end, I would like to highlight
13 opportunities to improve jobs for direct-care
14 workers, and increase the availability and readiness
15 of this workforce.

16 First, the legislature must increase
17 compensation for direct-care workers.

18 As a result of low wages, often unpredictable
19 hours, and limited annual earnings, nearly
20 50 percent of direct-care workers in New York live
21 in or near poverty and rely on public assistance,
22 and many are leaving the long-term-care sector for
23 higher paying opportunities.

24 Although our written testimony provides
25 four recommendations, I will expand on two to

1 improve compensation for direct-care workers.

2 First, the legislature should direct the
3 Department of Health to establish, with stakeholder
4 input, livable and competitive base wages for
5 direct-care workers across long-term-care settings.

6 The Department of Health should integrate
7 these base wages into Medicaid rates through a
8 transparent rate-setting process. And then the
9 Department of Health must also mandate a base rate
10 that managed long-term-care plans must pay providers
11 to fully cover costs associated with labor.

12 Second, the legislature should enact and
13 fully fund the Fair Pay for Home Care bill.

14 By providing home care workers with a living
15 and competitive wage, this legislation will attract
16 and retain workers, and help overcome a worsening
17 workforce shortage.

18 If enacted, this legislation would lower
19 poverty rates among home care workers, reduce
20 expenditures on public benefits, and increase
21 spending within local economies.

22 Second, we must strengthen direct-care worker
23 training.

24 Current training standards and programs, for
25 the most part, do not sufficiently prepare workers

1 for their complex and challenging roles.

2 The first recommendation would be, that the
3 legislature should direct the Department of Health
4 to facilitate consistent feedback from all relevant
5 stakeholders, to monitor the State's implementation
6 of the State's ARPA spending plan.

7 This oversight is critical for ensuring that
8 all of the provisions within the plan are
9 appropriately implemented, including, but not
10 limited to, those related to training.

11 Second, because the workforce investment
12 program's funding ended in March of this year,
13 immediate financial support is needed to ensure that
14 WIOs can continue to meet the training needs of the
15 long-term-care workforce.

16 The legislature must provide immediate bridge
17 funding for WIOs so that they can continue
18 fulfilling their important role, either through the
19 ARPA spending plan, if it's approved, or through
20 other funding mechanisms.

21 And, third, beyond this initial bridge
22 funding, the workforce investment program should be
23 reviewed and renewed for an additional four years,
24 with key amendments based on lessons learned.

25 Third, we must create opportunities for

1 advancement for direct-care workers.

2 Career advancement opportunities within
3 direct-care are also critical for retaining workers,
4 for amplifying their contribution to care, and
5 achieving quality outcomes and cost-savings.

6 To develop advanced roles, PHI recommends
7 that the legislature enact and fully fund the Home
8 Care Jobs Innovation Fund.

9 And, second, as the new 1115 Medicaid waiver
10 is designed, the Department of Health should
11 consider building in advanced-role demonstration
12 projects.

13 And, finally, PHI commends -- or, recommends
14 that the State convene a direct-care workforce task
15 force to develop a coherent and sustainable response
16 to the challenges facing the direct-care workforce
17 in long-term care.

18 To produce evidence-based recommendation, the
19 State must also improve its efforts to collect data
20 about direct-care workers across all long-term-care
21 settings.

22 To accomplish this, the State must survey all
23 relevant departments and agencies, to catalog
24 existing workforce-related data collection
25 mechanisms, as well as to identify gaps and

1 inconsistencies.

2 The State must also survey direct-care
3 workers themselves, to make sure that their voices
4 are included in discussions surrounding challenges
5 and solutions.

6 In conclusion, PHI appreciates the
7 opportunity to testify today, and looks forward to
8 ongoing conversations about how to best support
9 direct-care workers in long-term care.

10 Thank you.

11 SENATOR MAY: Thank you.

12 Maria.

13 MARIA ALVAREZ: Yeah, hi.

14 Good afternoon, I guess.

15 Thank you very much for holding these
16 important hearings.

17 My name is Maria Alvarez. I'm the executive
18 director of New York Statewide Senior Action
19 Council.

20 And we are a consumer-directed and
21 consumer-governed organization --

22 SENATOR RIVERA: Is your mic on?

23 SENATOR MAY: Yeah, I think maybe it's not.

24 SENATOR RIVERA: Go ahead, say "hello."

25 MARIA ALVAREZ: Hello? Hello?

1 Okay.

2 -- that, next year, will be 50 years old.

3 So, today, we've heard wonderful testimony
4 from my colleagues here. And I've given you my
5 complete statement.

6 So I wanted to just, in less than
7 4 1/2 minutes, to talk about some issues that
8 I think we need to keep up in front, and that is the
9 community.

10 So my testimony will be one that will
11 identify issues as they're affecting elders and
12 caregivers today, and the impact this will have for
13 the future, along with possible solutions for your
14 consideration.

15 Right now in New York State, we have more
16 people who are 65 years and older than are 13 years
17 and younger, which means that this is an aging
18 state. And all of these issues about nursing home
19 and care -- and home care are really the future, is
20 really what's going on, because there's going to be
21 a million more seniors, 65 and over, after --
22 between the years 2016 and 2026.

23 So -- and, you know, just to talk about what
24 the doctor was saying before, when anybody talks to
25 me about health care, two-thirds of the cost of

1 health care that comes out of the Center for
2 Medicare and Medicaid Services is on seniors.

3 So when anybody talks about health care, we
4 should be keeping senior citizens up in front
5 because those are the consumers.

6 Anyway, I wanted to talk to you about
7 something that's going on in the community, so --
8 and it's calls that I receive all the time.

9 People are not being able to go back to work
10 because their loved ones are not cared for. There's
11 a workforce shortage.

12 So we have people -- so -- and these calls
13 that I receive are about people who are not able to
14 get back to work because there's not care for their
15 mother that they cannot -- they can't do.

16 So what do you say?

17 Okay, well, go on Family Medical Leave Act.

18 Well, then, we're asking women of color,
19 mostly, who are caregivers, that's who the pool
20 usually is, to stay home, caring, and doing a very
21 hard job, for 60 -- and collect 67 percent of their
22 paycheck every week for 12 weeks, because that's
23 what it is. Right?

24 Or -- and if it runs out, and they can't
25 receive that health care -- that home care, then

1 they won't have pay, because their jobs won't be
2 able to pay for them -- for something that they're
3 not doing.

4 But what I want to bring to your attention,
5 though, is that the population, in general, moving
6 forward, will be women, minorities, and people --
7 and health care is the most -- the largest growing
8 industry.

9 We need to figure this out.

10 This is a tremendous opportunity for women
11 who are low income and minorities to get ahead.

12 We need to give them an opportunity to get
13 ahead.

14 And I just feel that, in any other industry,
15 people would say, Oh, great. We have a need. Let's
16 figure this out so that we can make a good profit
17 and move ahead.

18 But that's not what happens in this industry.

19 What they do is, they do not value the
20 worker. The worker is not valued here.

21 They are made to work longer hours. They're
22 made to work, travel far distances. They don't give
23 them enough hours so that they can have benefits.

24 In any other scenario, this would not be
25 acceptable.

1 Why are we not giving this the same respect
2 to what the future is?

3 Because, let's be pragmatic about it.

4 If these women cannot get back to work, or if
5 the minority communities will not be able to get
6 ahead, we're going to have a less -- you know, less
7 tax base, more burden on the State, and nobody is
8 going away, because people are here; people are
9 getting older, and they're here to stay.

10 So we need to figure out a way to make this
11 an opportunity for growth for what is going to be
12 the future of New York State.

13 SENATOR MAY: Thank you.

14 LINDSAY HECKLER: Hi. Thank you for the
15 opportunity to testify today.

16 I am Lindsay Heckler, a supervising attorney
17 with the Center for Elder Law & Justice.

18 We are based in Western New York, and provide
19 free civil legal services to older adults and people
20 with disabilities.

21 Our primary goal is to use the legal system
22 so that our clients can age with independence and
23 dignity.

24 And as partners with the regional ombudsman
25 program, we advocate for people living in nursing

1 homes and assisted living.

2 Now is the time to invest in the people of
3 New York, and ensure all individuals have the
4 ability to age with independence and dignity.

5 This means investing in the long-term-care
6 workforce while, at the same time, reforming the
7 delivery of long-term-care services and supports.

8 Both are necessary to ensure that every
9 person who needs these services and supports
10 receives them, they are of quality, and promote
11 independence and autonomy in the least restrictive
12 setting.

13 While our testimony is specific to the
14 workforce issues in nursing homes and
15 assisted-living facility, we encourage the Senate to
16 act holistically and not in silos.

17 It is essential to implement policies that
18 prioritize keeping older adults and persons with
19 disabilities in the community and out of
20 institutionalized settings; for example, including
21 the Fair Pay for Home Care in the next budget.

22 If we are taking appropriate measures and
23 keeping older adults in the community, then the
24 number of nursing home beds in the state will
25 naturally decrease.

1 What cannot happen, however, is rampant
2 widespread closure. People will be harmed.

3 In addressing staffing shortages, it's
4 important to remember that nursing homes make the
5 choice to admit new residents.

6 Once a new resident is admitted, it is the
7 facility's responsibility to ensure that person's
8 needs are met.

9 If a facility is not properly staffed,
10 whether it's nursing, social work, dietary,
11 housekeeping, or other, that facility has a
12 responsibility to not admit more residents.

13 For example, a 120-bed facility in Buffalo
14 has been cited 6 times since December of 2017 for
15 insufficient staffing; most recently, May 2021.

16 In this May inspection, the Department of
17 Health found the facility failed to ensure that
18 residents with pressure ulcers receive the necessary
19 treatment and services to promote the healing,
20 prevent infection, and prevent new ulcers from
21 developing.

22 This is the third time the facility has been
23 cited for this exact same violation since July of
24 2018. Third time.

25 In addition, this facility repeatedly

1 ranks at the bottom of staffing levels in
2 Western New York, and has one the highest usages of
3 contract staffing, which is associated with lower
4 quality of care.

5 When addressing the issue of the workforce
6 shortage, a question has to been asked:

7 Why don't people want to work at certain
8 facilities?

9 Why is there high turnover?

10 Yes, low pay is a factor; however, there are
11 other keys to recruitment and retention: teamwork,
12 respect, and organizational culture.

13 These things cannot be legislated, and at the
14 end of the day, are the operator's responsibility.

15 The words, "That's not my job," should never
16 be uttered in a nursing home; yet we hear that often
17 in these bad-performing facilities.

18 Enforcement of the staffing requirements is
19 needed to ensure resident needs are being met.

20 While the State can offer carrots, such as
21 grants or awards for nursing homes who improve
22 staffing levels, at some point the stick needs to be
23 more strongly used to get operators to comply with
24 their mandated responsibilities.

25 In addition, the State can reinvest how

1 Medicaid dollars are spent, such that residents who
2 live in these repeat underperforming facilities have
3 meaningful opportunity to return to the community or
4 other location of their choice.

5 Now, nursing homes aren't unique in being
6 understaffed.

7 Adult-care facilities (ACFs), or assisted
8 living, also face challenges.

9 In general, ACFs do not have the same
10 requirements as nursing homes, and the level of
11 staffing and type depending on the facility's
12 licensure.

13 We know there are ACFs that are not properly
14 staffed; however, there's no publicly available
15 information on staffing in these facilities.

16 For example, an assisted-living residence
17 with enhanced and special-needs beds in
18 Williamsville was cited in February of 2021, at the
19 endangerment, for failure to ensure there were
20 enough staff to comply with the supervision and
21 monitoring requirements needed to assure the safety
22 and welfare of the residents. A resident also
23 eloped in November 2022 -- or, 2020. Excuse me.

24 This same facility previously made headlines
25 when a resident who had dementia wandered from her

1 room, December 2017, and almost froze to death.

2 Staffing matters, and we need a strong
3 direct-care workforce in order to achieve holistic
4 reform and support older adults to live in the
5 location of their choice, often the community.

6 People should not be left in nursing homes
7 because there's a home care workforce shortage, nor
8 should people be subject to neglect in
9 long-term-care settings because of insufficient
10 staffing.

11 Thank you for your time.

12 SENATOR MAY: Thank you.

13 Thank you, all.

14 I have a couple of questions, I guess one for
15 each of you.

16 I'm wondering about, you talked about
17 poverty-level wages, or people earning -- working in
18 these facilities and not breaking above the poverty
19 line.

20 Have you -- is there research that can give
21 us some guide to what the cost to the State is of
22 having the -- having people working in these
23 facilities who are also on public assistance,
24 presumably? Is that measured?

25 HANNAH DIAMOND: I would argue that if you

1 pay people a higher wage, then expenditures related
2 to public benefits decrease.

3 So that's -- to answer your question, I think
4 that investing in workers, in general, paying them
5 with a livable wage, would pay for itself, by
6 reducing those public-benefit expenditures;
7 providing them with more financial stability, which
8 then they can then contribute back into their
9 economy.

10 So it would be a worthwhile investment to
11 invest in workers, to improve their financial
12 stabilities, and also improve quality care at the
13 same time.

14 SENATOR MAY: Thank you.

15 Yeah, that's what underlies our Investing in
16 Care Act, which that's the philosophy: Put the
17 money into these jobs that could be created
18 tomorrow, and there's a lot that comes back to us as
19 a state budget, but also into our communities.

20 I would love to follow up with you about the
21 MLTC workforce investment program, and how it was --
22 it was ended in this last budget?

23 HANNAH DIAMOND: It ended in March of this
24 year.

25 SENATOR MAY: Was that a planned thing, or

1 did that -- did we do that in our budget?

2 HANNAH DIAMOND: I mean, it was just not
3 renewed funding, so the funding ended.

4 There is -- within the ARPA implementation
5 spending plan, there is a provision within there
6 that can allow WIOs specifically to train the
7 workforce, and help to provide them with training
8 for advanced roles specifically.

9 So that's something that we're very
10 interested in.

11 But I think that, one, we don't know that the
12 ARPA spending plan is going be approved by CMS.

13 And even if it is approved, it's only
14 one year.

15 So we really need to provide the workforce
16 investment program with extended funding so that we
17 can see the impact of the work that the workforce
18 investment organizations are doing.

19 And we really need to be quantifying kind of
20 how that is impacting the workers, so that, then, we
21 could, hopefully, scale up this initiative, and all
22 pilot programs that it's helping with.

23 SENATOR MAY: Thank you.

24 And then, Maria, we work together all the
25 time, and I am grateful for all the work you do.

1 I wanted to just pull out something that's in
2 your written testimony, that you didn't mention, but
3 it's about a trend in New York of sending nursing
4 home residents to other states because there isn't
5 the staff.

6 Is that the reason for it?

7 Or what -- I'm not aware of that even
8 happening, so I don't know what the scale of that
9 issue is.

10 And I wonder if you can just say a little bit
11 more about it.

12 MARIA ALVAREZ: Yeah, well, so --

13 SENATOR MAY: It's on page 13 of her
14 testimony, for the people who [indiscernible].

15 MARIA ALVAREZ: Yeah, I'm sorry. This is a
16 very long testimony.

17 I have a lot to say, obviously, and
18 I couldn't say it all in five minutes.

19 But, yes, there is a trend where --
20 especially that happens in a lot of rural areas,
21 where there is not -- there -- a lot of the nursing
22 homes, I think somebody here was talking about how
23 they were shutting down, and they don't have enough
24 care in the area.

25 So what ends up happening is, that they have

1 to send them to other places to get care.

2 And it's just a shame, because we have --
3 it's almost like -- for example, in New York City
4 you have a lot of people. There's still a shortage,
5 and it's for different reasons.

6 But if I -- I've traveled the state. And
7 every single -- I've never been to a county that
8 tells me, I don't have a workforce issue.

9 And so some of the solutions are, that they
10 have to go out of state.

11 You know, in the North Country, they send
12 people to Vermont, to other places.

13 I actually have a colleague right now, it's
14 not for workforce issues, but for care issues,
15 that's in Boston, because, apparently, there's not
16 the care that he needs here in New York.

17 So, yeah.

18 SENATOR MAY: But it's the residents making
19 that decision, or the facilities are actually
20 sending them?

21 MARIA ALVAREZ: No, the facilities.

22 SENATOR MAY: Wow.

23 MARIA ALVAREZ: Because, really, what a --
24 a family wants to be close, to be able to visit, and
25 see what's going on in the nursing homes.

1 SENATOR MAY: Right.

2 MARIA ALVAREZ: You know, on my -- again,
3 I was trying to come across with a case study, that
4 it's not unique.

5 It comes -- I've had three of those calls in
6 the last week about the same thing.

7 But, basically, somebody who, not being able
8 to get all the home care possible so that she could
9 get back to work, now she's saying, Well, now I'm
10 going to even look into placing my mother in a
11 nursing home.

12 Now, the whole guilt, first of all, about,
13 because they didn't think that they would have to
14 come to that.

15 But then it's, Well, I want to -- I've got to
16 find somebody close -- you know, a nursing home
17 that's close enough, that doesn't have violations,
18 that doesn't have infectious diseases, that will let
19 me visit.

20 You know, these are all things that are very
21 real for a consumer.

22 You know, that we can -- can you imagine
23 somebody with -- having your mother with dementia,
24 turning her over to a nursing home, and not being
25 able to -- to -- you know.

1 And by the way, it's a lot much in their care
2 that they need to see people that they know, and not
3 being able to visit. Right?

4 SENATOR MAY: Yeah.

5 MARIA ALVAREZ: So -- so then that paralyzes
6 the person even more, and they'll say, Well, I don't
7 know if I could put my mother in any nursing home
8 right now because all of these things are happening.

9 SENATOR MAY: Right.

10 MARIA ALVAREZ: You know, and a lot also has
11 to do with the -- with -- we get a lot of calls, and
12 people complain that, Where do I go, what recourse
13 do I have, if all of these things are happening in a
14 nursing home or for home care? You know?

15 The ombudsman program, we've had many
16 conversations about how underfunded, undermanned,
17 they are.

18 Actually, I had to tell you this because
19 we've had ombudsmen local -- from the local offices,
20 saying, We're only one or two people who have to
21 cover various counties; all the institutions of
22 various counties.

23 SENATOR MAY: We're working on that.

24 MARIA ALVAREZ: Tell your elected officials.
25 You know, and they're telling us, Tell your

1 residents or the families to tell the elected
2 officials what's going on. We cannot handle this.

3 SENATOR MAY: Right.

4 MARIA ALVAREZ: You know?

5 Call the DO -- the Department of Health, you
6 know, to have nursing homes that receive fines --
7 first of all, it takes them, for a long time, just
8 to get to those -- those -- to get to visit these
9 nursing homes that people are complaining about.

10 When they finally come up with fines, there
11 are fines that are so low, frankly, that it's a cost
12 of doing business. The nursing homes actually
13 budget in their budget for fines.

14 I mean --

15 SENATOR MAY: Yeah. Thank you.

16 I'm going to break in, just so I can ask one
17 more question here --

18 MARIA ALVAREZ: Yes. I'm sorry.

19 SENATOR MAY: -- which is, to Lindsey:

20 What does the State need in order to enforce
21 the staffing levels that we are requiring?

22 What needs to be put in place to do that?

23 LINDSAY HECKLER: Well, I would pass
24 legislation that, for one, creates a do-not-refer
25 list to nursing homes that are routinely

1 understaffed, such that hospitals are not allowed to
2 send patients to there, those nursing homes.

3 Also, while I am very critical of the
4 Department of Health, Department of Health does not
5 have enough people doing the actual surveys.

6 But at the end of the day, it is the
7 operator's responsibility.

8 Yes, we can increase the Medicaid rates, but
9 it takes a leader to run a nursing home.

10 And the operators really need to do more to
11 create that professional working environment that
12 people want to show up to every day.

13 Because, as you've heard from many people,
14 nurses themselves, today, it's really hard work.

15 SENATOR MAY: Is there some kind of
16 credential that the operators have to get in order
17 to have that job, that could be then tied to
18 performance in [indiscernible] --

19 LINDSAY HECKLER: We could have a whole
20 separate hearing on the relevance of the public
21 health and health planning council.

22 But I would be happy to discuss with you that
23 separately.

24 They do, supposedly, go through character and
25 competency assessments.

1 SENATOR MAY: Okay. Great.

2 Thank you very much.

3 Thank you-all.

4 Do we have others?

5 Senator Borello, you -- we'll let you go
6 first this time.

7 SENATOR BORELLO: Well, thank you.

8 First of all, thank you again for being here.

9 Morgan, I was kind of -- or, excuse me.

10 Hanna -- excuse me -- I was kind of taken
11 aback a little bit.

12 You know, we've been sitting here,
13 criticizing private institutions for the pay raise,
14 and so forth; yet here we are, the State sets the
15 rate for direct-care workers.

16 And according to your testimony,
17 New York State, and the funding that's behind that
18 for Medicaid, which continues to be cut, is paying,
19 on average, \$14.24 per hour.

20 So I just want to make sure I am getting this
21 correct, because it's in your testimony.

22 So New York State government is paying less
23 than fast-food wages for direct home care workers at
24 the moment. Is that correct?

25 HANNAH DIAMOND: It's absolutely correct.

1 SENATOR BORELLO: I see.

2 HANNAH DIAMOND: This industry, on average,
3 I actually have a statistic that I would love to
4 share with you.

5 In comparison to other sectors in the
6 state -- this is New York-specific -- in the state,
7 with similar entry-level requirements, these jobs
8 are, on average, receiving \$3 less per hour.

9 And then for other jobs with lower
10 entry-level requirements, these jobs are receiving
11 65 cents per hour less.

12 So, yes, it's not -- this industry is not
13 paying a competitive wage; and it is the largest
14 industry, and the most quickly growing industry in
15 the state.

16 SENATOR BORELLO: But in last year's budget,
17 the State was going to try and fix this by creating
18 a -- some kind of a wage parity.

19 And this wage parity has resulted in lower
20 than the minimum wage currently that we pay
21 fast-food workers.

22 Is that basically what you're saying?

23 HANNAH DIAMOND: My argument is that it's not
24 competitive; and, therefore, workers are leaving for
25 other sectors.

1 SENATOR BORELLO: So we didn't fix anything
2 by doing this?

3 HANNAH DIAMOND: I think that we have more
4 work to do. Yeah.

5 SENATOR BORELLO: But we'll pay someone, a
6 taxi driver, to take somebody to a doctor's
7 appointment, two, three, four hundred dollars for
8 one trip, but we're not paying minimum wage to
9 health-care workers.

10 So...

11 HANNAH DIAMOND: We're not paying a livable
12 wage --

13 SENATOR BORELLO: Yes. Okay.

14 HANNAH DIAMOND: -- to home care workers.

15 SENATOR BORELLO: I just want to point out
16 that we're, you know, basically, kind of the pot
17 calling the kettle black, as we criticize people
18 in the private sector, not-for-profits, when
19 New York State's not living up to that commitment
20 in its own right.

21 So, thank you.

22 SENATOR MAY: Thank you.

23 Senator Serino.

24 SENATOR SERINO: Thank you, Madam Chair.

25 Maria, I wanted to say, thank you --

1 And for all of you, thank you.

2 -- but for you mentioning about how, when
3 places close, and family members can be displaced
4 anywhere.

5 We just had a situation where it was my
6 constituent, but the assisted-living facility was in
7 another senator's district. And the daughter went
8 on vacation. I think she was away for almost a
9 month. She didn't know where her mom went.

10 So we worked together, and we were able to
11 find out.

12 But, you know, that -- we should have safe,
13 reliable places for people to go in the communities,
14 and so that they don't have to travel out. And, you
15 know, especially like somebody with a little bit of
16 dementia, or whatever, you know, it's scary, too.

17 So, I appreciate everything that all of you
18 do.

19 And like I said, thank you for bringing that
20 up.

21 Thank you.

22 SENATOR MAY: Thanks.

23 And, Senator Ramos.

24 SENATOR RAMOS: Thank you.

25 Thank you so much.

1 I really appreciate your point about livable
2 wages, because I do feel that fast-food workers have
3 finally been able to be acknowledged and dignified
4 in the work that they do.

5 And pitting one workforce against the other
6 really doesn't actually solve our issues.

7 It's not that fast-food workers make too
8 much; it's that home care workers make too little.

9 And I really appreciate your point there.

10 I'm wondering, your comments on career
11 advancement and workforce development and
12 apprenticeships, based on what we've heard today, it
13 sounds like the bulk of these programs largely come
14 from the unions, from what I've heard. It's 1199,
15 it's NYSNA, that offer these opportunities at a
16 greater scale, and have, perhaps, even a greater
17 rate of success than anywhere else.

18 Are there ways --

19 And I apologize, because I know much more
20 about the construction industry than I do about this
21 one, where state-approved apprenticeship programs
22 can only be offered by unions.

23 I don't think that that's the case in this
24 industry.

25 But what can be done in order to, I guess,

1 offer the same quality of apprenticeship and
2 career-advancement programs outside of the unionized
3 workforce?

4 HANNAH DIAMOND: Sure. So that's, the
5 workforce investment programs plays a really
6 significant role in preparing -- in helping the
7 workforce with retention- and recruitment-related
8 issues.

9 So it's an organization like PHI, or like the
10 union, that receives funding, to work with providers
11 to -- for example, when it came to the pandemic, to
12 provide training about infection control or stress
13 management to the workers; to design advanced roles
14 which I would love the opportunity to talk a little
15 bit about.

16 We've been talking about advanced roles, you
17 know, to take a CNA to an LPN or a nurse.

18 So we want to make sure that these
19 positions -- nursing assistants, home health aides,
20 personal care aides -- that those positions, there
21 are opportunities within those roles.

22 So some examples:

23 You have a peer mentor who could provide
24 supports to new ongoing hires.

25 You could have a transition specialist who is

1 following a client while they're in the rehab or a
2 nursing home, post discharge for 30 days, to make
3 sure that they don't have a repeat hospitalization,
4 which is, therefore, improving their outcomes, and
5 then meeting [indiscernible] payments.

6 You have advanced home health aides that can
7 assist with medication administration.

8 All of those roles need funding, both for the
9 training of those roles, for delivering that
10 training, developing the training, training --
11 paying the workers while they're receiving the
12 training, then paying the worker a higher wage after
13 completing the training.

14 So all of that needs to be funded within the
15 advanced-role development process.

16 And the workforce investment program, again,
17 hopefully, if it were to be funded, would help with
18 that.

19 But, also, like the Home Care Jobs Innovation
20 Fund, is a great -- would be a great avenue to
21 support kind of innovation as well.

22 SENATOR RAMOS: Interesting.

23 So it sounds like, because there's such a
24 high rate of turnover in the industry, there really
25 isn't a pipeline or an avenue for institutional

1 knowledge, really, to be passed on.

2 HANNAH DIAMOND: Right. There's a loss of
3 that knowledge, which is tragic.

4 And that's why we're trying to provide
5 advanced opportunities that capitalize on the
6 expertise that these workers have, to both support
7 other workers, because supervision is such a
8 challenge within this field.

9 Providing support, capitalizing on the
10 worker's expertise, and giving them room for
11 advancement, which is respect and recognition of the
12 work that they do.

13 SENATOR RAMOS: So how are best practices
14 developed and taught to home attendants, or -- and,
15 you know, other people who work in this industry?

16 HANNAH DIAMOND: So when the workforce
17 investment organization -- or, the workforce
18 investment program had funding, we worked directly
19 with providers, and worked with workers, to --

20 SENATOR RAMOS: But you're not mandated to?

21 Or do you have to -- does every facility have
22 to come to you for this?

23 HANNAH DIAMOND: No, no. No.

24 SENATOR RAMOS: Interesting.

25 Okay.

1 Maria, I'm wondering about, just from a
2 consumer perspective, the quality of care, and how
3 it differs from facility to facility.

4 Are there any specific criteria and/or
5 indicators that I should be looking out for?

6 I'm Latina, so I would never put one of my
7 parents in a nursing home. No offense to those
8 who -- but it's a cultural thing. We don't do that,
9 largely. You know, our parents live with us.

10 But -- but how -- what should I be looking
11 out for as a consumer if I'm in that situation?

12 MARIA ALVAREZ: Okay. So, for example,
13 nursing homes, they have a code -- right? -- and
14 they have rules, about what visitation is, what type
15 of -- I mean, even down to the food that they
16 receive.

17 They have rights. You know, residents have
18 rights.

19 And what we have found is that, especially
20 during the pandemic, and now post pandemic, they
21 are -- what's happening, every nursing home is
22 interpreting the guidelines as they see fit.

23 So, for example, a visitation order, where,
24 during the pandemic, at the beginning, they were
25 allowing nobody to come.

1 And then there were severe problems with
2 people calling us, saying, I don't know anything
3 about my -- you know, my -- my loved one; to, then,
4 all of a sudden, the rules started easing up.

5 However, there were times where, in one
6 nursing home they will say, This could be
7 compassionate care. If you have Alzheimer's,
8 "compassionate care" means that they should be able
9 to get a visitation from at least one person, under
10 COVID; while another nursing home will say no.

11 So it took us a long time to go in and
12 advocate. And this is case by case.

13 And we're not the only ones receiving these
14 calls. But -- you know, and then that puts a big
15 strain on the ombudsman. Right? And, you know, you
16 have to keep on doing that.

17 SENATOR RAMOS: Is there any type of, like,
18 consumer reports --

19 I see you [indiscernible], and I have
20 questions for you, too.

21 -- but is there any sort of, like, consumer
22 reports "grade," or, you know, where I can quickly
23 see that one facility is rated higher, or one agency
24 is rated higher, than the other?

25 MARIA ALVAREZ: Yes, yes, there are.

1 The State has a report card for every nursing
2 home, and you can see what their stars are, and
3 infectious disease -- you know, things, all the way
4 from infectious diseases, and staffing ratios, and
5 things like that. You can see all of that there.

6 SENATOR RAMOS: All right. Thank you.

7 Lindsay is eager to jump in, but can you
8 also --

9 LINDSAY HECKLER: Sorry.

10 SENATOR RAMOS: No, don't be sorry.

11 -- but can you also maybe add a little bit
12 about -- I wanted to learn from you, about the
13 actual oversight that is provided by DOHMH.

14 I am a huge critic of the governor's
15 insistence on austerity budgeting.

16 I believe that the DOL is just as underfunded
17 and overcapacity as DOHMH. So I would like to know
18 a little bit more about that. And then I'll have
19 another one.

20 LINDSAY HECKLER: In short, we just don't
21 know how many surveyors are currently working
22 outside of FOIL requests.

23 So we have submitted FOIL requests, and are
24 looking through the information.

25 But people are filing complaints, and waiting

1 well over a year for a response.

2 And to be blunt, the only way you're going to
3 get a Department of Health surveyor into a facility,
4 is if the complaint alleges that harm has occurred.

5 They are so backed up with the complaints,
6 that even on their annual surveys, which is partly
7 governed by the federal process, they can only
8 investigate so many complaints at a time during
9 their annual survey; but then they only have so many
10 people to actually physically investigate.

11 So a lot of these investigations, I question
12 the thoroughness of them, when they are only calling
13 the facility, asking what happened, and
14 unsubstantiating that complaint.

15 SENATOR RAMOS: And then not visiting them?

16 LINDSAY HECKLER: Yes.

17 SENATOR RAMOS: Oh, wow.

18 LINDSAY HECKLER: They have resumed
19 visitation. So in the example of the nursing home
20 and assisted-living residence, which are two
21 different surveyor teams, they are catching some of
22 these insufficient-staffing deficiencies.

23 But, quickly back to where people can see the
24 rating system, yes, there's the CMS rating system;
25 yes, there's the nursing home profiles with the

1 State.

2 I do not put stock in the CMS rating system
3 because a lot of the star ratings are based on
4 non-complaint data. It's what they are putting into
5 the system.

6 If I'm a consumer or their representative,
7 I'm looking at the payroll-based journal staffing
8 data that is put out by CMS.

9 SENATOR RAMOS: In your testimony you said
10 that there are certain things in work culture that
11 cannot be legislated.

12 Challenge accepted.

13 What are the types of things in work culture
14 that you think, that you feel, and -- I don't mean
15 to put you -- you know, it's something I would like
16 to work with you on -- that perhaps, you know, are
17 out of the box and we should be looking into?

18 LINDSAY HECKLER: Well, I think there are --
19 and I defer to the specific workforce training
20 programs -- but it's how are -- how's your
21 administrator, how's your director of nursing, how
22 is the operator, when they come into the building?

23 Are they a hands-on approach, or do they hide
24 in their office?

25 When there's 1 CNA for 20-plus residents, and

1 they need more help, are other members of the team,
2 if they're there, available and willing to jump in?

3 It starts at the top for leadership.

4 And that's -- it's just a small piece of the
5 puzzle.

6 Whenever "not my job" is heard, there should
7 be a problem there.

8 SENATOR RAMOS: I have three seconds to ask
9 you if you know what the pay ratio usually is
10 between CEO and average worker in these facilities?

11 Because I saw some pretty nifty watches up
12 here earlier.

13 [Laughter.]

14 LINDSAY HECKLER: I'm not that skilled.

15 SENATOR RAMOS: All right.

16 [Laughter.]

17 SENATOR RAMOS: Thank you.

18 SENATOR MAY: Anyone else have a question?

19 I do want to just follow up on one thing,
20 from what Jessica was asking, about the five-star
21 rating system. We hear about that a lot.

22 It's a federal thing, is my -- or, a
23 national-level thing.

24 In your experience, does it actually line up
25 with the quality of care that's being provided?

1 LINDSAY HECKLER: I would never put my loved
2 one in a nursing home that's rated below four stars.

3 Five stars and four stars have their
4 challenges.

5 But if -- and this is my personal opinion,
6 and also based on professional review and experience
7 of going into these locations -- the one star and
8 two stars are most likely to have repeat
9 deficiencies and not address the problems.

10 MARIA ALVAREZ: And can I just say something
11 about nursing homes?

12 Up until recently, there were public --
13 New York State had public- and county-run nursing
14 homes, things like that.

15 They've all been sold off -- not all.
16 3 percent are still public.

17 But they've been sold off to profit-making
18 organizations that -- whose interest is really the
19 bottom line.

20 But a lot of these things were done without
21 public input.

22 And that -- if I said anything here today,
23 it's that I said a lot, but we need more public
24 input into any decisions that are made at these
25 levels.

1 SENATOR MAY: Okay. Well, thank you.

2 Thank you-all for your advocacy and your good
3 work, and for your testimony today.

4 SENATOR MAY: Our next panel, we have
5 Marcella Goheen and Agnes McCray.

6 And, unfortunately, Ian Magerkurth had to
7 leave.

8 So it's a Central New York theme.

9 Agnes McCray. She has a 4:00 train to catch.
10 Right?

11 Ian Magerkurth, who was on our list from the
12 Alzheimer's Association, was unable to stay.

13 AGNES McRAE: Good afternoon, everyone.

14 SENATOR MAY: Good afternoon.

15 AGNES McRAE: My name is Agnes McCray, and
16 I am a human rights advocate, and I live in
17 Syracuse, New York.

18 For the past 27 years now, I have been a part
19 of the -- excuse me -- I have been a part of the
20 consumer personal care assistance program.

21 Now, I must tell you that, before that, as
22 I was transitioning, I was told that, because the
23 aide service that I currently had was going out of
24 business, so I actually paid out of pocket to
25 maintain my services, because I remember the nurse

1 saying to me, We just -- we don't have those
2 services that can support you.

3 So she left, and I was on my own for
4 11 months.

5 I had to pay out from my SSI to get some
6 services.

7 Now, why?

8 Why did they tell me that I wasn't -- that
9 they could not fulfill my needs?

10 Because, see, I don't consider myself as a
11 person with a disability. I call it "extraordinary
12 differences."

13 So, from the time I was a child, and old
14 enough to dream, I always wanted to just live my
15 life the way I wanted to.

16 I didn't know how it was going to be
17 accomplished, but I always knew I wanted to be --
18 have children and [indiscernible].

19 So because I had children, without even
20 asking or finding out, they decided that it was --
21 that there's no way that I could have any type of
22 services.

23 So I ended up paying out of my pocket.

24 And then the personal care assistance program
25 came along. I got the phone call from their

1 founder, who brought it to Syracuse, Sally Johnson,
2 she said, "There is a program for you."

3 And I was hesitant.

4 I said, Okay, I will try it.

5 Here I am, 27 years later. My children are
6 grown now. But -- and I have always kept my aide
7 services. I always had a roster of persons that
8 I hire to take care of not only my personal needs,
9 but to help me to become a very successful, darn
10 good advocate.

11 And I must say that they have always put
12 their -- my needs ahead of their families'.

13 If you look at my testimony, I'm talking
14 about one specific attendant that I had for
15 14 years.

16 And after 14 years, because her daughter
17 was -- she came before her daughter was even in
18 kindergarten. And after 14 years, she had to choose
19 between her daughter's needs, because she was a
20 single parent, and taking care of me.

21 I am lucky because, my youngest son, who you
22 see right behind me, has put his college career on
23 hold for a minute, until I am able to find staff.

24 And it's very hard to find staff.

25 We had an ADA celebration yesterday, and

1 celebrated 31 years. And we were all -- the
2 advocates were all talking about going to different
3 places so that your staff can make more money.

4 It's not only about Fair Pay for Home Care,
5 it's about my health as well.

6 I have not seen a hospital in the past
7 11-1/2 years. I'm very proactive in taking care of
8 myself.

9 But I know for being an advocate, that
10 it's -- like I said, it's not only about the Fair
11 Pay for Home Care, it's across the board.

12 It's having the attendants know to take care
13 of those elderly patients who live on their own.

14 The agencies are strapped. They're not
15 showing up because you can make more money
16 elsewhere.

17 I think that we, in light of the Disability
18 Awareness Act and other promise which gives us the
19 right to freedom, and the right to choice and the
20 right to choose.

21 We really need to look at this and choose
22 help now.

23 I know of another person that has, because he
24 was on his own for four years, independently living
25 out of [indiscernible] nursing home. And living in

1 [indiscernible] since the pandemic, he went into a
2 nursing home three times, because, all of a sudden,
3 his home, and what he knew, was deemed unsafe.

4 SENATOR MAY: Okay. Agnes, I'm sorry, can
5 you wrap up?

6 We are -- your testimony, and then we'll have
7 questions for you.

8 AGNES McRAE: And I just wanted to say that,
9 also, we need to put more options on the table,
10 because health is -- health is really about wealth.

11 And we know with COVID now, and everything
12 that is happening, I do not want to put myself at
13 risk, and I don't want to have to choose between
14 whether I'm going to be paying rent with my SSI
15 check or paying for someone to come in and take care
16 of me.

17 Will I, all of a sudden, be deemed unfit,
18 after 27 years of independently making that choice
19 on my own?

20 Thank you very much.

21 SENATOR MAY: Thank you.

22 And, Marcella Goheen.

23 MARCELLA GOHEEN: Hi. Good afternoon.

24 Thank you so much for the opportunity to
25 testify.

1 Thank you, Senator May, for your service;
2 Senator Rivera, Senator Ramos.

3 My name is Marcella Goheen, and I'm a
4 caregiver advocate, and the wife of
5 Robert Victor Viteri who lives in a resident --
6 I knew I would cry -- in a long-term-care facility.

7 I am founder of EssentialCareVisitor.com, a
8 digital on-line advocacy tool that educates,
9 advocates, collaborates with private and public
10 partners, to collaborate with family consumers to
11 serve their vulnerable loved ones in a
12 long-term-care facility.

13 I founded EssentialCareVisitor.com on
14 March 12, 2020, at 1 p.m. in the afternoon, when
15 I was told by our administrator and senior staff
16 that I would no longer be able to enter the nursing
17 home to continue my collaborative care with my
18 husband, who I had been serving for the past
19 four years up to that point.

20 I was a daily caregiver, five to seven hours
21 a day, as he suffers from a rare neurodegenerative
22 process that has no name.

23 It would be nine months later until I saw him
24 again, after I had to file an unprecedented
25 Supreme Court lawsuit to sue the facility to abide

1 by the federal law, which was his federal disability
2 to receive his caregiver and his person, as he is
3 nonverbal.

4 I currently am a daily caregiver to my
5 husband, serving him in collaboration with the
6 nursing home staff daily.

7 I testify today on the shoulders of so many
8 vulnerable loved ones in heaven who we lost --

9 Viceraci [ph.]. Mr. Birch [ph.].

10 -- so many on my husband's floor --

11 He was one of the only survivors.

12 -- and the many residents still alive who are
13 needing to receive the full quality care in a
14 post-pandemic setting that is their federal resident
15 right, according to the Omnibus Act of 1987.

16 I also stand in unity with the staff, the
17 aides, the nurses statewide today, who continue
18 courageously to serve our vulnerable residents
19 without care tools and appropriate compensation to
20 do so.

21 They are serving, as you and I sit here
22 today, from their gut, while they work within a
23 health-care system that is collapsing around them.
24 And these workers still choose to come to work daily
25 to help my husband, and the thousands of others like

1 him.

2 To them I say, Thank you.

3 I'm also standing on the shoulders of
4 my 92-year-old mother who was part of the
5 1987 Omnibus Act. She ran nursing homes from
6 1986 to 2006.

7 She told me, when I was 11 years old, when
8 she walked me through her nursing homes, "You see
9 these people? Some of them have families, some of
10 them don't. Most of them don't. It's our job to
11 take care of them."

12 We as family members are witnessing
13 unspeakable staffing issues statewide.

14 Put simply, the problem is, there is no
15 staff.

16 Staff have been laid off in union-busting
17 ploys; however, vulnerable populations are rising.

18 Staff are leaving through their own choice.

19 Staff are traumatized.

20 Staff are collecting unemployment.

21 Staff are exhausted.

22 And more concerning, there is no staff to
23 recruit.

24 But according to the personal caregiver bill,
25 which, in June 24th, suddenly, we're not in a

1 pandemic, we're not allowed to enter because we're
2 no longer in a pandemic.

3 So facilities are practicing various versions
4 of the caregiver bill.

5 There is a catastrophe happening.

6 The accelerated human decline and unnecessary
7 loss within long-term care setting is a tragic
8 disaster.

9 We are being told by staff, statewide:

10 It is worse than the pandemic.

11 Maybe the same, says another.

12 If there's no staff to get residents out of
13 bed, give them their medication, take them outside,
14 turn them, feed them, bathe them. We are breaking
15 our oath as a society and commitment to our
16 vulnerable. We are harming them.

17 I introduced today a family consumer advocacy
18 project that was dreamed up by
19 EssentialCareVisitor.com. It is also thought up by
20 a couple of nurses in the facility I am in, as well
21 as the caregiving staff that I have had the
22 privilege to collaborate with over the past
23 eight months, as I was able to enter my facility
24 through my lawsuit.

25 This plan is a hopeful solution containing

1 interdisciplinary emergency response. And it is an
2 emergency.

3 I have 49 seconds, and I'm not done.

4 I'm so sorry.

5 SENATOR MAY: We have questions for you.

6 MARCELLA GOHEEN: It's called
7 "multigenerational recruiting process," that will
8 serve our loved ones who are now dying, not because
9 of the staff and nurses do not care, but because
10 there is no staff to care.

11 Our essential campaign is called "Raise Up
12 Care."

13 Raise Up Care will work to break the
14 collective trauma response that every seat at the
15 table is enduring.

16 This campaign is not a "should" or a "may" or
17 a "could"; it is a "must" if we are going to save
18 lives.

19 The "R" in Raise Up Care stands for, we must
20 refrain, restore, and renew long-term-care
21 facilities. We must retrain and reeducate all the
22 staff and all the stakeholders.

23 We need to ask ourselves, What does it mean
24 to care, as a human, for a vulnerable human?

25 It is not something that we like to talk

1 about as a society, yet it is the one thing that we
2 all have in common: We are all going to get sick,
3 and we are all going to leave this earth.

4 The residents are us.

5 "A" in the Raise Up to Care, is we must
6 acknowledge, affirm, and address the trauma in the
7 long-term facilities.

8 The angel care staff who are working
9 tirelessly as we sit here today continue to fight to
10 restructure nursing home reform.

11 We cannot lose these senior staff.

12 They are more than our heros; they are the
13 best of ourselves.

14 But not only do they need their higher salary
15 reform and aid-to-resident ratio adjustments, they
16 need mental-health services, as well as
17 trauma-informed care settings that address their own
18 trauma, having survived something so complex with
19 our family members, as well as witnessing the trauma
20 of our vulnerable residents.

21 I'm sorry.

22 And the "I" is incentivize, invest,
23 investigate, care systems for all stakeholders.

24 The "S" is to provide the sustainable,
25 quality care models.

1 And then the "E" is for empowering, engaging,
2 and educate.

3 [Simultaneous talking.]

4 SENATOR MAY: I'm going to cut you off there.

5 But, thank you.

6 Thank you, both.

7 And I did give you both a little extra time,
8 because this is why we're here; to hear your
9 stories, and not just talking points from government
10 functionaries, but from real people who are -- have
11 real stories to tell.

12 And, Agnes, I see you in our community
13 multiple times a week.

14 You truly are an amazing advocate for people
15 with extravagant differences, and all of us,
16 honestly.

17 And your son, whose name I should know, and
18 I don't, but who does wonderful work as well.

19 I honor both of you.

20 And I don't really have a question.

21 I get to talk to you-all the time.

22 But I do thank you for lifting up the Fair
23 Pay for Home Care, and the other ways that we are
24 trying to invest in care in this state, because it
25 is, obviously, so important to allow people to be

1 independent as long as they possibly can and want
2 to.

3 So your independence is a beacon for so many
4 people, about what our programs should be doing,
5 what home care should be about.

6 And so thank you for coming all this way to
7 help us understand that.

8 And, Marcella, also, we've worked together
9 a lot. And the work you've done on visitation in
10 nursing homes.

11 I wanted to ask you, as somebody who's been
12 in the facilities on such a regular basis:

13 One of the reasons I was so determined to
14 advocate for helping people get in to visit their
15 loved ones is a belief of mine, that when you don't
16 have family members coming in, that it allows some
17 of the facilities to kind of conceal what is really
18 going on; or, at least family members were concerned
19 that, because they weren't able to get in. It
20 wasn't just that they couldn't visit their loved
21 ones, but they couldn't see what the conditions were
22 inside the nursing homes.

23 And I'm wondering if you -- to what extent
24 you feel the visitors are kind of a complimentary to
25 the staff, and necessary to the staff, in the sense

1 of providing the whole continuum of care that people
2 need in the nursing homes?

3 MARCELLA GOHEEN: Well, at this stage in the
4 game, we're essential at this point.

5 My experience is showing me that, when
6 I first got in in December, it was all neurocare for
7 my husband. But now it's eight months later, and
8 I'm doing 70 percent regular care that is not his
9 neurocare, and 30 percent neurocare.

10 So that's a very micro model of my experience
11 as a consumer.

12 But, at this point, you need the families in
13 there because there is no staff.

14 There is 1 nurse to 45 patients.

15 I'm getting calls where there's -- as you've
16 heard before today, where there's no staff.

17 Nurses are working two floors.

18 There are 2 aides for a floor of 30.

19 How do you feed, clothe, bathe, get them out
20 of bed?

21 Forget getting them out of bed. They're not
22 getting out of bed, so now you have people in bed
23 all day.

24 So it's an accelerated decline: Bed sores.
25 Escalating potential for blood clots.

1 It's a disaster.

2 When I use the word "disaster," I thought it
3 might be too strong to use for the Senate. But
4 I think it's actually accurate.

5 So for a facility to not let family members
6 in at this point, it's, actually, you're asking us
7 to hurt our vulnerable yet once again.

8 So you're not letting us in because you're --
9 you're letting us in an hour at a time. Our loved
10 one needs more than an hour at a time.

11 So if that answers your question.

12 It's a beautiful collaboration; the model
13 works.

14 The personal caregiver bill is spot-on.

15 And I hope -- I wish the facilities would
16 acknowledge it, and not continue to take what parts
17 of it fit conservatively to not letting us in, but
18 to letting us in.

19 I'm in a unique position where I was able to
20 advocate for my husband.

21 And this is my husband in December when I
22 finally got in, who was very happy to see me, who is
23 nonverbal.

24 SENATOR MAY: Well, thank you for bringing
25 him here.

1 MARCELLA GOHEEN: But he's able to -- that's
2 why I brought him, Robert Viteri. And he's actually
3 starting to talk a little bit again, saying, yes,
4 no. And we're getting him up in his standard.

5 So, yeah.

6 SENATOR MAY: That is wonderful to hear.

7 SENATOR RAMOS: He's so lucky to have you.

8 SENATOR MAY: Yeah, he is, lucky to have you.

9 And please give him our best, too.

10 Okay. Anyone else have anything to say?

11 No? We're good?

12 Okay.

13 Well, thank you both for coming, and for your
14 very powerful testimony.

15 Have a safe trip home, Agnes.

16 All right. Our next panel is...

17 All right. So that was the conclusion of our
18 nursing and assisted-living section, although, as
19 everyone can see, they run together, and it's not
20 that easy to separate them out.

21 But we are up to the "home care" thing.

22 I think we're going to go ahead without a
23 break, but we'll take a break in -- at some
24 likely -- or, in the afternoon.

25 SENATOR RAMOS: We have to stretch.

1 Occupational hazards of our own.

2 We've got to stretch.

3 SENATOR MAY: You want to take a stretch now?

4 No, let's keep going.

5 But I'm going to have to get up and leave for
6 a few minutes at some point.

7 So this is Panel 1 of the "home care"
8 section.

9 And we have Rona Shapiro, and
10 Lilieth Clacken, Jason Brooks, and Martha Davila.

11 Let's start with Rona.

12 MARTHA DAVILA: Okay. Good afternoon.

13 And thank you, Senator May; thank you
14 Senator Ramos; thank you my friend Gustavo Rivera,
15 for being fighters for social justice, and to make
16 the lives of home care workers and the people they
17 serve better.

18 And, of course, I have to give my love to my
19 senator, Shelly Mayer, who is from Yonkers.

20 So I'm executive vice president with 1199.

21 I lead the union's home care division,
22 representing over 60,000 home care workers across
23 the state.

24 And I appreciate the fact that you have given
25 one of the first hearings on home care workers in

1 the Senate.

2 I would also --

3 I'm joined today by three workers,
4 Lilieth Clacken, who is 1199 SEIU rank-and-file
5 leader; along with Jason B. Brooks; and
6 Martha Davila, who are home care workers, who will
7 share with you their experience as home care
8 workers.

9 I think that there's no stronger testimony
10 than you just heard from Agnes McCray, of why we
11 have to transform the home care system in
12 New York State.

13 And I think this is a task that is way
14 overdue, and that, together, we can do it to make it
15 a better system.

16 The challenge that we face is how we make
17 home care a more attractive profession, so workers
18 will come back to the job, and new ones will take up
19 the job of a home care worker.

20 We can do this, but it will take resources
21 and a commitment to elevating home care workers to a
22 valued part of the larger health-care delivery
23 system.

24 If we are serious about preparing for the
25 increased demand for home care, we cannot just

1 assume workers will be available to fill vacancies.

2 We must transform these jobs, or we will not
3 meet the demand, and we will continue to lose
4 workers to better-paying jobs, or even lower-paying
5 jobs with consistent full hours.

6 We can no longer just talk about this.

7 We have to actually make the changes in
8 New York State that can change the job of the
9 home care worker.

10 What we're doing in 1199 -- and I've been
11 doing this a long time. And working with home care
12 workers has been the honor of my life to do that.

13 And while we fought many years for pennies,
14 "for pennies," we finally did get to a \$15 minimum
15 wage with wage parity. And that was three years
16 ago, and the workers have gotten no raise since that
17 time.

18 In 1199, we're fighting like hell to get
19 billions of dollars -- federal dollars into home
20 care workers and home care services around this
21 country.

22 We just had a rally in New York City, with
23 Hakeem Jeffries, pushing for the Better Care Better
24 Jobs Act.

25 We have our own home care training fund,

1 1199 training fund; the best in the country.

2 We are using the monies that we get.

3 There's not enough money, to upscale the job,
4 to upscale the workers.

5 We're creating pilots.

6 We're working with managed-care companies,
7 like Healthfirst, who actually is investing in
8 pilots with one of our 1199 agencies, Premier, who
9 is in the room, to figure out how we create new and
10 different jobs and tasks for the home care worker
11 that produce better health-care outcomes.

12 In the Healthfirst model, the workers will be
13 paid more, they'll have a Chrome tablet, and they
14 will be able to, in real time, talk about what is
15 going on to the client, so we can intervene in any
16 emergencies.

17 The home care workers are the eyes and the
18 ears, and the lifesavers, of many of their clients.

19 And we do not take advantage of the skill,
20 the language, the culture [indiscernible] that they
21 have with these clients, and the time. They spend
22 more time than most families do with the client.

23 And, unfortunately, they're still invisible.

24 We're making sure that the \$2 billion slated
25 for home care services in New York State gets

1 dedicated to hazard pay and other initiatives, for
2 transportation, pilots for guaranteed hours.

3 We're working with the training fund and our
4 agencies to figure out, how do we recruit new
5 workers?

6 Many of the agencies that we work with do not
7 have enough money because they actually follow
8 wage-parity laws to hire expensive people to do
9 advertising for recruitment of workers.

10 The training fund, we're talking about
11 building a hiring hall so that we can both help the
12 workers and the consumers get clients.

13 What do we need to do together?

14 We need to make family-sustaining wages.

15 We need to pass the Senator May and
16 Gottfried's Fair Pay for Home Care workers, calling
17 for wages of \$22.50 plus wage parity.

18 We need guaranteed hours of work so home care
19 workers can maintain a steady income. And we need
20 pay differentials for personal care assistants
21 working with high-need consumers.

22 SENATOR MAY: Okay. I have to cut you off.

23 Sorry, Rona.

24 RONA SHAPIRO: Okay. Thank you.

25 So I would like to introduce my beloved

1 sister Lilieth.

2 LILIETH CLACKEN: Good afternoon to my
3 elected -- or, elected leaders, and to all the
4 visitors here today.

5 My name is Lilieth Clacken, and I am a home
6 health aide worker, a very proud 1199 member, and a
7 delegate. And I work for two major agencies in
8 New York.

9 My mission today is on behalf of thousands
10 of home health aides who are advocating, and we need
11 better pay, compensation for essential tasks we
12 perform, along with other health-care workers,
13 before the COVID-19 pandemic, during the pandemic,
14 and, hopefully, long after the pandemic is gone.

15 I would like to take a few moments to detail
16 for you my job description which goes beyond and
17 above these tasks mentioned.

18 The patient in my care presently is a stroke
19 victim who has been rendered immobile on one side.

20 This unfortunate health challenge has
21 significantly reduced her capacity of taking care of
22 her personal needs, which also diminishes her sense
23 of dignity and independence.

24 I endeavor to restore some of her dignity by
25 practicing the training given to me by my employers

1 during initial training and ongoing in services,
2 which enable me to maintain certification in
3 caregiving to a level of professionalism.

4 I assist her out of bed.

5 I assist her with toileting, bathing, and
6 more importantly, safely transporting her around the
7 house.

8 I make her meals.

9 I accompany her to doctors' visits when
10 needed.

11 Supervise her taking her medication, and
12 simply being beside her, to take her to the bathroom
13 whenever she needs to.

14 I'm a passionate caregiver who believes in
15 keeping my patient comfortable, clean, and as happy
16 as is possible under the circumstances of her not
17 being capable anymore of taking care of herself.

18 My patient cannot be left alone.

19 The importance of me being there is
20 undoubtedly the key to her living a dignified life.

21 Her family have an important peace of mind,
22 knowing their loved one is in the hands of a
23 capable, trained home care worker which puts no
24 monetary value.

25 The companionship I provide is invaluable.

1 And so I urge you to provide us home care
2 workers with a better salary so that we can, in
3 turn, take care of our own families in a very
4 acceptable, responsible way.

5 During the pandemic, I refused to stay home,
6 knowing my patient need me, and I wanted to be able
7 to provide for my own family.

8 While we appreciate the applause and the
9 lip service of thanks, we demand hazard pay from
10 the 1.6 billion slated for New York on the
11 American Rescue Plan of 2021.

12 We worked in our patients' home during this
13 fearful period, and so we're expecting compensation.

14 We demand better pay, as we should be able to
15 take care of our own families while providing care
16 for other families.

17 And this is the heart of most issues facing
18 home health aides.

19 The work is undervalued and underpaid, and it
20 creates hardship for the aides who stick with the
21 work, and makes it harder to find new workers.

22 We have a rapid aging society, and so this
23 should be taken into account as we meet the needs of
24 our most vulnerable seniors who have served this
25 country, and should be given the right to stay in

1 the comfort of their homes while we professionally
2 take care of them.

3 I now take a moment to thank my greatest
4 union, 1199, because they have provided. When our
5 agency could not provide the PPE, they were assisted
6 to us. And I thank them.

7 I'm a great, proud union member.

8 We need the federal Better Care Better Jobs
9 Act passed so our home care workers can continue to
10 provide this crucial service, and attract younger
11 workers in this field.

12 Thank you so very much for allowing me to
13 address you, and I anxiously await your response to
14 our cries.

15 Thank you.

16 SENATOR MAY: Thank you.

17 Jason, as we move on.

18 JASON B. BROOKS: Good afternoon, everyone.

19 I'm a little nervous.

20 I look up to all y'all, I'm just being
21 honest.

22 Every single person on this panel, thank you,
23 for one.

24 Good afternoon.

25 My name is Jason Brooks/Jason B. Brooks. I'm

1 a home health-care worker from Rochester, New York.

2 I appreciate the opportunity to share my
3 experience as a PCA with you.

4 I started doing care work eight years ago
5 when a friend's mother got cancer and needed a
6 tracheotomy tube. My friend told me I would be
7 perfect to care for his mom, due to the reason that,
8 my patience and my humbleness.

9 Everything went right. I cared for her for
10 two years.

11 After this experience, I decided to see if
12 I could keep going in home care and make a living
13 doing this work. Actually, more of a career is what
14 I wanted it.

15 I have to be honest with you, it was right;
16 it was the right decision, but it's been a struggle
17 for six years for me.

18 I've worked for a lot of agencies, and all of
19 them, non-union. And each time, you have to fight
20 for more hours, stable hours, better pay, or even
21 just getting paid for the work that you do at hand.

22 I've never had health insurance through my
23 job in all these years. Really, it's just hard to
24 get.

25 I'd like to work with just one agency, but

1 you really can't. We are constantly looking for
2 that extra quarter or those extra hours we need to
3 get by.

4 I'm usually working for more than one agency
5 at a time, and doing per diem work where I can find
6 it.

7 I can't even imagine what it's like to work
8 40 hours and be able to support yourself.

9 And if the client you are caring for goes
10 into the hospital or dies, your assignment is over.

11 This happens regularly.

12 Then you are out of a job until the agency
13 finds another client, and this can take a couple
14 weeks, a few weeks, maybe even a month, particularly
15 for men, because most people are more comfortable
16 having a woman as their home care aide.

17 This really is one of the hardest parts of my
18 job. You spend months, or even years, taking care
19 of somebody in the day out, and they pass, and
20 you're out of work.

21 No thanks for all you do.

22 Keep on pay -- well, you don't keep on the
23 payroll until we find another client.

24 Instead, you just wonder how long you're
25 going without a paycheck.

1 The other frustrating part of this is, the
2 work is always having to fight the agencies to get
3 all the pay that you have worked, that you have
4 earned.

5 I'm regularly cheated out of hours just
6 recently.

7 I've worked, and I've always -- you know,
8 I asked for a raise, or need a raise. And the
9 agencies, they ignore it. They ignore it.

10 Sorry, I'm getting a little emotional.
11 Sorry.

12 SENATOR MAY: That's all right.

13 JASON B. BROOKS: I'll make it quick.

14 So, again, did I make the right decision
15 six years ago?

16 I have to say yes, but...

17 Yes, but we can't go on like we have been.

18 We can't be forced to always search for more
19 hours to get a paycheck big enough to take care of
20 our needs.

21 We can't be forced to work for agencies that
22 provide no health benefits.

23 We shouldn't have to look at our paycheck
24 every two weeks to see if the agency is paying us
25 correctly.

1 We're human beings taking care of
2 human beings.

3 We need to take care of ourselves in order to
4 take care of others.

5 And that's so big on me right now.

6 I'm exhausted now from working three shifts,
7 12 hours, back-to-back, so...

8 So we need the legislators; we need you, we
9 really do. We really do.

10 Me, myself, I can say that I'm crying out for
11 you guys' attention, and your help, because we need
12 you to make sure that the money that we get in our
13 agency goes to the PCAs, and make sure that the
14 agencies pay a living wage; make them provide health
15 care; we need guaranteed hours; we need support
16 agencies that employ unionized workers.

17 Otherwise, each year will be a struggle for
18 PCAs, and each year, more and more will decide they
19 can't take it another year.

20 So I thank you.

21 I thank every last one of you on the panel,
22 and everyone in their rightful place.

23 Thank you for listening.

24 SENATOR MAY: Thank you.

25 And, Martha.

1 MARTHA DAVILA: (Witness speaking a foreign
2 language.)

3 (Translated to English by an interpreter, as
4 follows:)

5 Good afternoon. My name is Martha Davila.
6 I work for Preferred Home Care.

7 I'm having working there for around
8 four years.

9 And thank you for giving me the opportunity
10 to be talking today.

11 And, right now, I am an employee, and
12 recovering from COVID-19.

13 MARTHA DAVILA: (Witness speaking a foreign
14 language.)

15 (Translated to English by an interpreter, as
16 follows:)

17 Back in January, my agency sent me to do a
18 replacement, and to take care of an elderly person.

19 When I arrived, I saw two people instead of
20 one, and they were sick.

21 Two days later I started getting a headache
22 and a little fever, I was dizzy.

23 I went to see my doctor to do the test.

24 It was positive with COVID-19.

25 Also, I heard that the other two home care

1 workers who were also taking care of these patients
2 was positive, too, with COVID.

3 Now, after more than six months later on,
4 I still feel dizzy, afraid, and with fatigue.

5 MARTHA DAVILA: (Witness speaking a foreign
6 language.)

7 (Translated to English by an interpreter, as
8 follows:)

9 The agency that I work for never provide us
10 with the PPE equipment. We had to buy our own
11 masks, gloves, even gowns.

12 Before I got sick, the agency stopped also
13 provide us the health insurance.

14 Most of the time my paycheck was not correct.
15 It always missing days and hours.

16 I always had to push to get my full hours
17 paid, and this happened not only with me. It also
18 happened with the other aides.

19 MARTHA DAVILA: (Witness speaking a foreign
20 language.)

21 (Translated to English by an interpreter, as
22 follows:)

23 Okay. Right now I am getting ready to go
24 back to work, but I am still terrified of getting
25 sick again. I feel so nervous.

1 But I feel the agency who we work for need to
2 do better job of taking care of the workers and the
3 clients.

4 The State should clamp down on the agency
5 that don't treat workers fairly, and put the health
6 of us aides and the clients at risk.

7 I feel afraid, but just tell the government
8 to do something for us because, some agencies, they
9 didn't take care of us like they are supposed to be.

10 Thank you for your help.

11 SENATOR MAY: Thank you.

12 Thank you-all for your testimony.

13 I just have a couple of quick questions.

14 One of them was for Rona.

15 You talked about how agencies had a trade-off
16 between investing in recruitment and paying the
17 workers.

18 Was that you who brought that up?

19 So, like, either they were going to spend
20 money on advertising, and that sort of thing, or
21 they were going to put it to worker pay.

22 So do you have a sense of what it -- what the
23 costs are of recruitment and advertising and -- just
24 so that we can figure out what we need to add into
25 what -- to reimbursements for these agencies?

1 RONA SHAPIRO: Well, thanks for the question.

2 My point was that, you know, the horror
3 stories that you hear from home care workers, and
4 that you've heard today, you know, unfortunately, we
5 continue to throw Medicaid dollars at them, and
6 we -- I don't feel provide the proper oversight.

7 And I'm hoping that when new monies come in,
8 that we are very protective of that Medicaid
9 dollars, because, as Senator Rivera said, the
10 budgets get cut, and the agencies that continue
11 putting money in their own pockets and not in the
12 workers' pockets, such as who Martha works for, they
13 continue to get money from the managed-care
14 companies.

15 So my point was that, our 1199 agencies,
16 I know how much money they spend because they have
17 to spend 1909. They signed a collective bargaining
18 agreement. There's not a lot of fat.

19 As a matter of fact, the agencies that do the
20 right thing are suffering to be able to pay the
21 workers' health care, pay the benefits, and pay the
22 money.

23 There's no excess money to, like, if they
24 wanted to advertise for recruitment, if they wanted
25 to, you know, do like some of the for-profit bad

1 actors do, then they would not have that money.

2 But the training fund, we're going to --
3 we've already done a pilot, with an online thing,
4 trying to recruit new workers.

5 The problem is, there's not enough money
6 being offered to workers. That is just the fact.

7 We can talk whatever we want. But
8 [simultaneous talking; indiscernible] --

9 SENATOR MAY: Let me follow up on that,
10 because we tried -- the Senate Majority tried to get
11 \$624 million into the state budget this year, to
12 supplement the wages of home care workers.

13 And what we were told was, that there was no
14 way to guarantee that that money would actually go
15 to the workers.

16 We could pay it, but it would go to the
17 agencies, and they would do with it what they
18 wanted.

19 So I'm wondering, what's the solution to
20 that?

21 How do we earmark the money specifically so
22 that it goes to the workers?

23 RONA SHAPIRO: Should I say it should go to
24 1199 agencies?

25 That's probably not what some of the other

1 folks in the room want to hear.

2 But there has to be ways of oversight.

3 You know, you can just -- you know, and we've
4 talked to various people in the state.

5 There has to be oversight.

6 So when you give -- when the managed-care
7 companies give money to an agency, they have to
8 prove that this money is going into workers'
9 pockets.

10 Now, they will sign attestations, and just
11 lie and say yes. And if nobody, you know, checks it
12 out.

13 But I think we all have more responsibility,
14 the managed-care companies, the state legislature,
15 to make sure that there is oversight, and there's
16 qualifications for this money.

17 There is a key vac [ph.] program, where some
18 of the agencies got extra money, because they had
19 health insurance, because they had training
20 programs, because they proved to be quality
21 agencies.

22 I think agencies who show that they're
23 investing in workers, I think managed-care plans who
24 show that they're willing to invest in the
25 workforce, should get dollars to do that.

1 If you hear of plans who are not doing
2 anything, we should, you know, question it.

3 I don't even know why we need so many
4 managed-care plans in New York State.

5 Everybody is taking a piece of the little
6 money that is given for home care from the home care
7 worker.

8 Everyone gets their piece except the home
9 care worker.

10 And that's why we're here today.

11 And I couldn't think of a better group of
12 senators to talk to help us win this fight.

13 I'll give you-all an 1199 hat if you'll help
14 us.

15 [Laughter.]

16 SENATOR MAY: Yeah, I got to say, Jason,
17 there's a union that wants you, I'm sure.

18 I was just going to say, if when I get the
19 point of needing home care, I hope it's the Lilieths
20 and Jasons and Marthas who are there to take care of
21 me, because you-all are very impressive, and what
22 you have to say is really powerful.

23 Is there anybody else --

24 SENATOR RAMOS: Yes.

25 SENATOR MAY: Oh, all right.

1 Senator Ramos.

2 SENATOR RAMOS: Hello. Good afternoon.

3 You know, it's really overwhelming for me,
4 and I think everyone, to see the inevitable human
5 and emotional connection that there is between the
6 home attendant, or nurse, and your patient.

7 And I really admire the work that you do.

8 And I can only hope that we can figure out
9 how to make sure that we are honoring your vocation
10 monetarily; that you're properly compensated, that
11 you're afforded, you know, the ability to live the
12 life that you deserve.

13 And so I wanted to understand a little bit
14 that was mentioned, I think it was you, Jason,
15 about, upon a patient passing, I imagine there's a
16 lull in between a new assignment to another.

17 How does that work?

18 If you're -- if you're -- if the person who
19 you're caring for passes away, do -- is that when
20 you stop being paid?

21 Do you not get paid until you get a new
22 patient to care for?

23 How does that work?

24 JASON B. BROOKS: Basically what happens is,
25 if a patient goes into the hospital or if they

1 decease, everything stops.

2 Your pay stops.

3 You don't get another client until, speaking
4 for myself, it's usually hard for me due to the fact
5 that I'm a male. So have I to do male-on-male
6 clients.

7 So it's a little harder.

8 So a few have passed away from me. And it
9 took like three weeks, maybe a month, to find
10 something else.

11 In the meantime, I had to jump-start myself
12 to another agency to keep living.

13 SENATOR RAMOS: So you rely on yourself to be
14 able to either plan ahead, if you can, because,
15 unfortunately, these things also happen
16 unexpectedly, I assume.

17 JASON B. BROOKS: Yes.

18 SENATOR RAMOS: So if you don't have a plan,
19 or if you weren't expecting the person to pass away
20 at that time, what do you do?

21 JASON B. BROOKS: There's really nothing too
22 much to do.

23 You're working for the agency. So, at that
24 time, like I said, if they do go into the hospital
25 or they do decease, it's up to the agency to really

1 replace you. And they really don't replace you as
2 they should, so you're just in limbo, honestly.

3 SENATOR RAMOS: That's some very difficult
4 uncertainty, and it seems like that's the theme.

5 There's a lot of uncertainty, actually, with
6 this work, which is really ironic, because you
7 yourself are a health benefit to another human
8 being.

9 You are a health benefit.

10 That's incredible.

11 You know, something -- a piece of legislation
12 that I tried to get passed, and I was not successful
13 in the last session, was the Corona Presumption
14 bill.

15 And I guess this mostly affects you, Martha,
16 you know, the ability for a worker to be able to
17 qualify for workers' comp, if and when you get hurt
18 on the job, which, of course, you know, getting
19 infected with coronavirus, or anything else, for
20 that matter, while on the job in the course of your
21 work should be covered by workers' comp, in my
22 opinion.

23 But that's not something that we were able to
24 obtain.

25 ///

1 SENATOR RAMOS: (Speaking in foreign language
2 to Martha Davila.)

3 I just said that I wanted to apologize to
4 her, because I still believe it was the right thing
5 to do, for her to be able to, you know, obtain lost
6 wages, and be able to provide for herself and for
7 her family, because she got hurt while she was on
8 the job.

9 I want to hear more about the wage theft.

10 You know, I carry the sweat bill. I carry --
11 we just passed a construction wage-theft bill.

12 But you're actually the first to mention it
13 here at this hearing today.

14 SENATOR RAMOS: (Speaking in foreign language
15 to Martha Davila.)

16 I want to know how prevalent the wage-theft
17 practice is in this industry.

18 You're the first to mention it here among all
19 of our panels.

20 MARTHA DAVILA: (Witness speaking a foreign
21 language.)

22 SENATOR RAMOS: (Speaking in foreign language
23 to Martha Davila.)

24 MARTHA DAVILA: (Witness speaking a foreign
25 language.)

1 SENATOR RAMOS: (Speaking in foreign language
2 to Martha Davila.)

3 MARTHA DAVILA: (Witness speaking a foreign
4 language.)

5 SENATOR RAMOS: That's not chump change.
6 \$3,000 is not chump change.

7 She said that she -- that she -- do you want
8 to translate for her?

9 THE INTERPRETER: No. You can do it.

10 SENATOR RAMOS: That she -- you know, really,
11 she went to her union in order to find recourse for
12 filing a claim with the Department of Labor.

13 But, you know, by and large, she has felt
14 ignored by the DOL. And it's not really been easy,
15 or it's been practically impossible, in order for
16 her to recover her lost wages. And that over the
17 course of about three years, she lost \$3,000 in
18 overtime pay.

19 MARTHA DAVILA: (Witness speaking a foreign
20 language.)

21 SENATOR RAMOS: (Speaking in foreign language
22 to Martha Davila.)

23 MARTHA DAVILA: (Witness speaking a foreign
24 language.)

25 ///

1 SENATOR RAMOS: (Speaking in foreign language
2 to Martha Davila.)

3 MARTHA DAVILA: (Witness speaking a foreign
4 language.)

5 SENATOR RAMOS: Preferred Home Care?

6 MARTHA DAVILA: (Witness speaking a foreign
7 language.)

8 SENATOR RAMOS: So I'm learning that there
9 are now several wage-theft claims made against this
10 employer called Preferred Home Care.

11 RONA SHAPIRO: Non-1199, Senator Ramos.

12 [Laughter.]

13 SENATOR RAMOS: Not surprised.

14 Not surprised, Rona.

15 Not surprised.

16 Okay.

17 (Speaking in foreign language to
18 Martha Davila.)

19 MARTHA DAVILA: (Witness speaking a foreign
20 language.)

21 SENATOR RAMOS: Okay.

22 So she's saying that there's also malpractice
23 with the patients, not just the employees.

24 And I think that that's a really important
25 point for everyone to understand.

1 And just to translate what I said earlier:

2 I just want to thank you for being here.

3 Your voice is really important. So much of
4 this work is done by Latinas, especially
5 [indiscernible] women like you and me. And you're
6 the only one who's testifying here today amongst
7 everyone.

8 So thank you for taking the time to do so.

9 SENATOR RIVERA: Thank you.

10 And I will also underline that she made clear
11 that, because of the way that they were treating,
12 not only the workers, but the patients, she felt it
13 was necessary to speak up.

14 And she stepped up in that regard.

15 (Speaking in foreign language to
16 Martha Davila.)

17 Next we'll have Senator Rachel May.

18 SENATOR RAMOS: Shelly.

19 SENATOR RIVERA: Huh?

20 SENATOR RAMOS: Shelly Mayer?

21 SENATOR RAMOS: I'm sorry.

22 Shelly Mayer, because Rachel May is not here.

23 [Laughter.]

24 SENATOR RAMOS: This was a test, and you
25 passed it.

1 [Laughter.]

2 SENATOR RAMOS: Shelly Mayer.

3 SENATOR MAYER: Thank you, Chair.

4 First, I want to thank all of you, the actual
5 providers of care, because you truly, particularly
6 during COVID-19, as you described, you know, you
7 really took extraordinary risk, personal risk, and
8 had consequences.

9 And we -- I know I speak for all my
10 colleagues, we take it very seriously, and know that
11 you are owed more than you got; and that's our job
12 to fight.

13 But I have a question for you, Rona.

14 The agencies that, basically, failed to do
15 the right thing, that still get state Medicaid
16 dollars, either through managed-care plans or in
17 some other direct route, when 1199, or anyone,
18 complains to the Department of Health about their
19 conduct, is there a response?

20 RONA SHAPIRO: Justice moves slowly and in
21 strange ways in the New York State Department of
22 Health.

23 So we have reported several agencies, and we
24 have fought with several agencies.

25 And, unfortunately, they are still in

1 business, and collecting dollars. And when we have
2 proof, we talk to the managed-care companies.

3 You know, we have a lot of stories, to
4 Senator Ramos's point, like Martha, because when we
5 organize non-union agencies, we hear these stories.

6 And the City of -- the Consumer Affairs and
7 the City has taken on some of the agencies for not
8 paying sick time, or doing that.

9 But there has not -- they're still receiving
10 Medicaid dollars.

11 SENATOR MAYER: So there's work for to us do
12 in pushing state -- the State, and I don't mean the
13 legislature, I mean the Department of Health and our
14 colleagues in government, to ensure that when state
15 dollars are going out to these agencies, it comes
16 with the responsibility of doing the right thing;
17 not to cheat the workers, not to put their patients
18 at risk.

19 And so we have to work together to push that
20 further along than it's gone so far.

21 But thank you-all.

22 RONA SHAPIRO: And thank you.

23 SENATOR RIVERA: We have a last quick aside
24 from Senator Ramos.

25 Go ahead.

1 SENATOR RAMOS: I totally have more
2 questions.

3 Sorry.

4 I wanted to ask you, Rona, about organizing,
5 you know, because we touched upon that a little bit
6 with your colleagues over on the other side of the
7 industry.

8 How does it work with a much more isolated --
9 you know, with isolated workplaces?

10 How can you organize someone like Martha?

11 RONA SHAPIRO: Well, actually, we got very
12 creative during COVID.

13 It's hard enough to find workers when COVID
14 is not on.

15 But we organized Concepts of Independence,
16 which is the largest consumer-directed, and the
17 oldest in New York State, 7,000 workers, and we
18 organized them virtually.

19 And I don't know if any are here today.

20 And we've organized another agency through
21 Zoom, and through house visits, and finding the
22 workers.

23 And some of the employers have begun to find
24 us, and to realize that we really partner with our
25 agencies that do the right thing.

1 And so some of the agencies have found us,
2 and are interested, because they want to do the
3 right thing, and they want to win for their workers.

4 And so we've actually -- we tried to organize
5 Preferred, and Edison, and Isabelle Leichter [ph.]
6 was the organizer, and they were not nice.

7 I say it that way.

8 So it is very difficult, but I think Jason is
9 very interested in helping to organize workers.

10 SENATOR RAMOS: Oh, my God. You're a natural
11 organizer.

12 SENATOR RIVERA: Yeah.

13 SENATOR RAMOS: You're a natural organizer.

14 RONA SHAPIRO: He is.

15 SENATOR RAMOS: Now I'll put you on the spot.

16 RONA SHAPIRO: He is, he is.

17 Okay.

18 So -- any way, so we continue to organize
19 workers.

20 And I think COVID kind of shone the light on
21 the inequities. And I think your hearing is helping
22 to do that.

23 SENATOR RAMOS: And what's the union density?

24 SENATOR RIVERA: Senator Ramos.

25 SENATOR RAMOS: Is it like -- do you know

1 what percentage of the industry?

2 I'm going to ignore Senator Rivera.

3 What percentage of the industry is -- is the
4 union density high?

5 RONA SHAPIRO: Yeah, about -- no. Not home
6 care organizing.

7 It used to be -- I'm not going to make it up.

8 I'll get back to you on that. Let me ask my
9 lawyer.

10 SENATOR RIVERA: Thank you, Senator Ramos.

11 And thank you-all for being here today.

12 RONA SHAPIRO: Okay.

13 SENATOR RIVERA: Moving on to the second
14 panel of the --

15 RONA SHAPIRO: Gustavo, are you from
16 The Bronx?

17 [Laughter.]

18 SENATOR RIVERA: Just a little bit.

19 And I will also say, for the record, that
20 I will apologize to you, because I have been
21 referring to last year as "the Rona."

22 And that's -- and now, just when you sat
23 down, I'm, like, Oh, I have been...

24 Okay.

25 RONA SHAPIRO: It's okay. I'm used to it.

1 SENATOR RIVERA: Thank you so much.
2 Good Rona. You're the good Rona.
3 The next panel will be:
4 Ilana Berger from the Caring Majority;
5 Agnes McCray, board president of ARISE -- oh,
6 I'm sorry. Agnes McCray was already with us.
7 A reader for Sandra Moore Giles from the
8 Senior Home Care Consumer;
9 Sandra Abramson, family caregiver --
10 Please make your way down.
11 -- and, Mildred Garcia Gallery,
12 Ageless Companions.
13 You may start when you are down.
14 Thank you so much.
15 ILANA BERGER: Should I start?
16 All right.
17 Hi.
18 So thank you, first, to Chairs May, Rivera
19 and Ramos; to all the staff who worked really hard
20 on this hearing, for the opportunity to testify.
21 My name is Ilana Berger. I'm the New York
22 director of Hand in Hand, the domestic employers
23 network, which is a sister organization to the
24 national Domestic Workers Alliance. And I help
25 coordinate New York Caring Majority.

1 New York Caring Majority is a coalition of
2 older adults, disabled people, family caregivers,
3 home care workers, and home care agencies and
4 providers from across the state, organizing to make
5 long-term-care services and supports affordable and
6 accessible to all New Yorkers, and to make home care
7 jobs living-wage jobs.

8 So like many others here today, I am also
9 here to talk about the importance of investing in
10 home care; specifically, raising home care worker
11 pay through passing Fair Pay for Home Care.

12 I wanted to start with just a short quote
13 from an official in the Nassau County Health
14 Department, reflecting on the home care workforce
15 shortage, and they said:

16 "Until we can offer home care aides a sense
17 of worth, a sense of recognition, a fair salary,
18 fringe benefits, and some sort of career-type
19 mobility, we're going have a problem getting
20 sufficient aides and retaining them."

21 It's a great idea, I'm sure we all agree.

22 There's one issue with that, it's from 1987:
23 We never solve this problem.

24 So in the eighties, home care was growing as
25 an alternative to institutional care, and the

1 population of older adults had started to grow.

2 As a result, the demand for home care workers
3 began to rise. But like today, the pay was low,
4 conditions were challenging, and it was hard to find
5 and retain workers.

6 So almost 35 years later, the challenges are
7 still with us.

8 And by not solving these challenges over the
9 past three decades, we have let them develop into a
10 full-blown crisis.

11 "The Rona" has only made matters worse.

12 Sorry, Rona.

13 So I'm strongly here to advocate for the
14 passage of Fair Pay for Home Care, to increase
15 worker pay to 150 percent of minimum wage.

16 There are so many reasons to support it. And
17 I'm not -- but hearing from workers, hearing from
18 consumers, and the compelling stories are the most
19 important.

20 So I want to talk today about the economic
21 argument.

22 I'm going to be an economist today, although
23 I am not one in real life, and sort of focus on a
24 report that was done recently by a CUNY researcher,
25 Isaac Jabola-Carolus, and Professors Stephanie Luce

1 and Ruth Milkman, who couldn't be here, who did a
2 study called "The Case for Public Investment and
3 Higher Pay for New York State Home Care Workers."
4 It was published just earlier this year.

5 And they find that lifting wages, like what
6 we would do with Fair Pay for Home Care, would
7 require a substantial public investment, but the
8 resulting savings, revenues, and economic benefits
9 would far exceed the cost.

10 So the CUNY report begins with the same sort
11 of demographic story we already know.

12 Between now and 2040, New York's overall
13 population is projected to grow only 3 percent, but
14 the number of adults aged 65 and over will grow by
15 25 percent; and the age of 85 and over by
16 70 percent. And that continues to the point where,
17 between 1970 and 2030, the over-65 population will
18 have doubled its share, growing from about 1 in 10
19 to 1 in 5 New Yorkers.

20 Additionally, the Center for Disease Control
21 and Prevention says a quarter of the state's
22 population has a disability likely to increase
23 because of COVID long-haulers.

24 They just published this week a study that
25 found that, potentially, 1 in 5 COVID-19 patients

1 will leave a hospital with a new disability.

2 So based on this projections, between 2018
3 and 2028, the number of home health and personal
4 care aide jobs is going to grow by an average of
5 over 26,000 a year.

6 Every year these occupations add as many jobs
7 to the state economy as the next 40 largest
8 occupations combined.

9 This is good news, which means home care is a
10 vital growth sector. But these jobs are going
11 unfilled because people cannot make a living on the
12 pay.

13 So the steady flood of workers leaving these
14 jobs adds to another 72,000 openings, which is far
15 more than any other occupation.

16 The exits, the people leaving the workforce,
17 is much higher than any other sector. In total, we
18 face about 100,000 openings each year in home care,
19 adding up to nearly a million job openings over a
20 decade.

21 So CUNY looks at what would happen if you
22 invest in something like Fair Pay for Home Care.

23 It would lift the wages of 85 percent of home
24 care workers statewide, about 200,000 people.

25 It would cost about \$4 billion, which is a

1 lot of money; although, in perspective, it's only
2 about 1 percent of total spending within New York's
3 health-care system.

4 What they find is, despite the cost, what we
5 would get back from economic spillover, which is the
6 money from higher wages in communities; new sales
7 tax revenue from that spending; new income tax
8 revenue; savings in public assistance; and then
9 productivity gains because of less turnover, result
10 in about 7.6 billion in money coming back to the
11 state, totaling about 5.4 billion overall, given the
12 investment in.

13 So it would also create about 20,000 new home
14 care jobs every year, and then 18,000 jobs in other
15 sectors because of this economic spillover.

16 So it's a huge economic benefit.

17 I'm going to be like 30 more seconds, just to
18 say, in addition to the economic benefit, we also
19 want to see who's benefiting.

20 So there's 200,000 home care workers who are
21 90 percent women, 75 percent Black, Hispanic, and
22 Latino -- and Asian, and 67 percent born outside the
23 United States.

24 So public investment and higher pay is also a
25 powerful tool to advance equity in race, gender, and

1 immigration status.

2 And then for folks who need the care, just,
3 if you look again at the aging population, the
4 number of adults age 65 and over has grown much more
5 among Black, Latino, and especially Asian residents.

6 So solving the home care shortage is also a
7 crucial piece in ensuring that care is available to
8 communities of color.

9 So I will leave it there, just to say that
10 it's a great economic investment. It's an
11 investment in equity.

12 Please support Fair Pay for Home Care, as
13 well as the Home Care Jobs Innovation Fund, and
14 eliminating the global cap.

15 Thank you.

16 SENATOR MAY: All right. Thank you.

17 So it says, "A reader for
18 Sandra Moore Giles."

19 Is that you?

20 Okay.

21 MARGARITA SEINE [ph.]: Yes, my name is
22 Margarita Seine [ph.]. I live in Saugerties,
23 New York, and I am reading Sandra Moore Giles'
24 testimony.

25 I know Ms. Giles from the New York Caring

1 Majority. We advocate alongside each other.

2 And I just want to say, she's a remarkable
3 person who puts her body and soul into this work.

4 She is featured in an outdoor art
5 installation currently in Freedom Plaza in
6 Washington, D.C. And she traveled to D.C. earlier
7 this month to speak, and to cut the ribbon with
8 Secretary of Labor Marty Walsh.

9 And the only reason she's not here today is
10 because, for reasons of her health, her doctor told
11 her she should not make the trip from Kingston into
12 Albany today.

13 So I have been asked to read her testimony,
14 and I am really honored to share her story in her
15 words with you today.

16 (Statement of Sandra Moore Giles read, as
17 follows:)

18 My name is Sandra Moore Giles from Kingston,
19 New York. I am 75 years old.

20 I have served and cared for my community my
21 whole life.

22 I was a foster mother for 106 children, and
23 adopted 4 children.

24 I have worked as a chaplain on Rikers Island
25 and in our prison system.

1 I run the food pantry at my church.

2 I'm on the board for the Office of The Aging
3 in Ulster County.

4 I'm getting older now, though, and now I can
5 no longer do that because of my health. Now I need
6 help.

7 I just received a letter from Fidelus and my
8 doctor, saying, I need 20 hours a week of home
9 health care. I can't even fill five hours a week.

10 Because of the stress and the strain of not
11 having a home health aide, last week I was
12 hospitalized for a blockage in my heart.

13 I wish I could be with you-all today, but I'm
14 getting heart surgery tomorrow.

15 Who is going to take care of me when I get
16 out of surgery?

17 No one wants to do home care -- home
18 health-care work now because the pay is too low.

19 You can make more working in fast-food than
20 you can taking care of a human being like me.

21 I need help. I need an aide.

22 Who is going to help me?

23 I do not want to end up in a nursing home.

24 And I'm not alone.

25 I live in a senior building. Many of my

1 neighbors are going through the same struggle.

2 We need to make home care jobs good jobs.

3 We need to support seniors to live
4 independently.

5 We need you to pass Fair Pay for Home Care as
6 soon as possible.

7 Thank you.

8 -- Sandra Moore Giles.

9 SENATOR MAY: Thank you.

10 And thank you for being here to do that.

11 Sandra.

12 SANDRA ABRAMSON: Hello. My name is
13 Sandra Abramson.

14 Thank you, Senators --

15 Better?

16 Thank you -- no?

17 Can you hear it now?

18 SENATOR MAY: Yes.

19 SANDRA ABRAMSON: Okay.

20 My name is Sandra Abramson.

21 Thank you Senators Rivera, May, Ramos.

22 I'm a 75-year-old senior, living alone in
23 Senator Benjamin's district in New York City.

24 I'm here to tell you my story, and about why
25 it is so important to have a well-paid and trained

1 home care workforce to care for seniors and people
2 with disabilities in New York.

3 In 2006 it became increasingly clear that my
4 partner, Terry DeFiore, later to become my wife in
5 2011 when we were permitted to marry in
6 New York State, was having increasing physical,
7 psychological, and emotional difficulty with
8 day-to-day activities.

9 She was losing her balance and falling. She
10 would break into laughter in appropriate --
11 inappropriate times.

12 She, who had been able to problem-solve with
13 ease, was continually making errors in judgment.

14 It took us nearly three years to learn that
15 she had progressive supranuclear palsy, or "PSP," a
16 degenerative neurological disease that would render
17 her progressively incapable of care for herself.

18 However, we were very lucky. In 2002 we had
19 decided to look into purchasing long-term-care
20 insurance.

21 No insurer would sell me a policy, as I had
22 had a stroke several years earlier. But Terry was
23 in perfect health, and was able to purchase the
24 platinum policy, long-term care, from Genworth.

25 It covered her for life, and had a high

1 monthly payment.

2 Little did we know that Terry's perfect
3 health condition wouldn't last for more than
4 four years.

5 Genworth didn't know that either.

6 By late 2008, Terry, who had worked in the
7 construction field as a site safety manager, began
8 to show increased signs of her illness.

9 Her task was to keep workers and others safe.

10 As her disease progressed, however, she could
11 barely keep herself safe, let alone care for others.

12 She stopped working on December 1, 2008, and
13 in 2009, of April, Genworth started covering the
14 cost of caregiver to be with Terry during the day,
15 as I was still working, and Terry needed someone
16 with her so she would be able to attend our local
17 senior center, go up and down stairs, eat, and do
18 all the things she could still do.

19 In 2010, when Terry moved downstairs, she
20 need 24-hour care so that I could get some sleep,
21 and be able to do what I needed to do to care for
22 myself as I supervised her care.

23 We were working with Visiting Nurse Service
24 of New York (VNS) to find and supply caregivers.

25 VNS supervised the caregivers, and charged us

1 a little more than \$20 an hour, while they paid the
2 workers about \$9-plus an hour.

3 Genworth's reimbursements, totaling nearly
4 \$13,000 monthly, covered Terry's care costs and
5 other essential costs.

6 We had several caregivers over the years
7 through VNS. They were generally competent, caring,
8 and compassionate.

9 However, at some point I began to consider
10 asking some of the caregivers if they would work for
11 us privately.

12 We could offer them nearly twice what VNS was
13 paying them.

14 After some back-and-forth, one agreed.
15 I found someone else.

16 From 2011, on, I supervised a caregiving
17 staff of three-plus women who were wonderful
18 caregivers.

19 I did all the scheduling, the invoicing to
20 Genworth, as well as the payroll and tax payments.
21 We were able to pay them over \$18 an hour.

22 After living with this horrendous disease for
23 nearly seven years, Terry died in 2013.

24 Genworth had paid out more than \$600,000 to
25 cover her caregiving costs, although she paid less

1 than \$15,000 in premium.

2 Had she not had the insurance, as well as
3 other disability insurance and Medicare, we would
4 have had to sell our home and other assets to pay
5 for her care, or she would have been declared
6 indigent and gone on Medicaid.

7 Terry's story would not be my story if I were
8 to contract a debilitating disease. As I said,
9 I don't have any of the insurance coverage that
10 Terry had.

11 I would have almost none of the support or
12 income that she had. And I have no one to care for
13 the daily, weekly, monthly tasks that I performed
14 for her at no cost to anyone but us.

15 We were able to keep Terry at home.

16 In all that time, she never went to the
17 hospital for nearly seven years as she struggled to
18 live with dignity.

19 We were lucky to have the funds and a home
20 that we could transform into a workplace and living
21 space for caregivers working 24/7.

22 New York is the epicenter of a national
23 income care worker shortage, with the projected
24 shortage of 50,000 workers by 2023, and over
25 83,000 by 2025.

1 This shortage means tens of thousands of
2 New Yorkers are currently at risk because they
3 cannot receive the services that they need to live a
4 high-quality life in the community, with hundreds of
5 thousands more on the brink of disaster.

6 Low wages are the reasons for this crisis.

7 Governor Cuomo claims that New York is the
8 most age-friendly state in the nation.

9 While we appreciate the sentiment, if
10 Governor Cuomo wants New York to lead in this area,
11 we have a long way to go.

12 I'm now 75.

13 As I age, I wonder how I will live if I get
14 sick and need the kind of care Terry needed.

15 Without fair pay, where will we be able to
16 find the kind of caregivers that Terry had.

17 Thank you.

18 SENATOR MAY: Thank you.

19 MILDRED GARCIA GALLERY: Senators, and Senate
20 committee members, my name is Mildred Gallery;
21 Mildred Garcia Gallery. I'm a proud Latina.

22 I have been a home care worker for more than
23 30 years, and the founder of Ageless Companions, a
24 Long Island-based staffing agency.

25 I was introduced to home care at 19 while

1 I worked United Cerebral Palsy.

2 One client, a young man in particular, named
3 Perry, truly impacted my views on home care.

4 He was wheelchair-bound, and he was in a
5 special program for eating. One day during lunch he
6 began to choke and he turned blue.

7 Although I was scared, I jumped into action.
8 I suctioned him, dislodged the piece of food, and,
9 thank goodness, he began to breathe.

10 We both sighed in relief.

11 I was shaken, but I felt capable and
12 competent, and I hadn't felt that at that age -- at
13 that time. And it really gave me direction. It
14 made me want to do better and be better.

15 It changed the direction of where -- or, the
16 projection of where I was going to go in life,
17 because I was not one of those -- I wasn't -- my
18 circumstances did not allow me to go to college
19 directly out of high school.

20 So home care actually saved me, in a sense.

21 I would like to continue on so...

22 I continued to provide the best possible care
23 for all of my clients.

24 One of the most memorable clients was
25 Ralph Ciprioni [ph.], a 95-year-old World War II

1 veteran, and his wife, Christine [ph.].

2 Ralph, when I met him, was 98 pounds, but his
3 will to live was as strong as my will to care for
4 him.

5 I learned much about life from Ralph.

6 I learned about patience.

7 I learned about the value of human contact
8 and human interaction, and how much that does feed
9 and nurture a person.

10 Together we worked tirelessly.

11 His doctors were impressed with the amount of
12 progress he made in such a short period of time.

13 Our growing friendship encouraged him to
14 fight a little bit longer.

15 Unfortunately, Ralph lost his battle, but on
16 his own terms, at home, with dignity, with love and
17 support. And I was proud to be a part of it.

18 And I am proud to still currently care for
19 his wife. And they were married for 71 years.

20 And anyone knows, being married that long, a
21 loss like that can actually take you down.

22 But it didn't, because she has us, and we
23 have her.

24 This has been my life's passion -- my life's
25 work passion, but the pay -- with the low pay,

1 I wonder every day, how can I stay?

2 How can I continue to stay in a profession
3 that does not value me?

4 How can I support my family, my three
5 daughters. I'm trying to put them through college.

6 This work makes me feel wonderful, but it
7 doesn't pay the bills.

8 I know that I am one of thousands of people
9 who love home care work, but the feeling -- but
10 we're feeling forced to leave a profession because
11 of its low wages.

12 So I am here to ask you, to beg of you, to
13 say "this is the time."

14 We need it more than ever.

15 We -- the families need it, they need our
16 care, but we need to be cared for.

17 To go on to continue to care in a way that
18 you care for your own family; but yet, to go home,
19 and to come home to your own empty pantry, to not be
20 able to provide for your children the things that
21 you want, that you see maybe the families that
22 you're caring for.

23 It really is about the humanity.

24 I feel that we have lost that sense of
25 humanity, where possessions and things mean so much,

1 and at the cost of our loved ones' lives, of how we
2 care for them.

3 We have got to put that first, because,
4 without human compassion, and us coming together to
5 solve this problem, I don't know what else is going
6 to happen. I don't know who else to ask for.

7 We have exhausted every area. Every area.

8 And this is a job that I and many others are
9 so proud to do.

10 And there are all these misconceptions about
11 us. And that's -- those are stigmas, and that's not
12 the majority of us. It is the minority.

13 I speak for all of the ones that love to do
14 this, and we don't want to leave. We want to stay
15 and do this work that we've been doing for long, or
16 people who just came into it.

17 We want more people to come and join us, but
18 they're not going to for this pay, when they can go
19 to Holly [sic] Lobby, or wherever, and make more
20 money.

21 So what are we saying?

22 That the value of our loved ones is not that
23 much.

24 SENATOR MAY: Thank you.

25 Thank you so much.

1 Thank you, all of you, for just reminding us
2 how important this is.

3 Ilana, I wanted to follow up with you,
4 because you talked about 100,000 openings a year;
5 and all of you talked about what this job means.

6 One of the things it means, if we have
7 100,000 people who are looking for care and not
8 getting it, is that there are a lot of families that
9 are stepping in and doing that care.

10 There are a lot of people who are putting
11 their own lives on hold, in one way or another,
12 stepping away from the workforce, or, you know,
13 going part-time, or all of those kinds of things.

14 I have a bill to create a family caregiver
15 tax credit, but it's a tiny drop in the bucket in
16 terms of what the costs are.

17 So I'm just wondering, when you talked about
18 the \$7.6 billion return on a \$4 billion investment,
19 I'm very familiar with that.

20 We have the bill, Investing in Care Act, that
21 is specifically designed to activate that -- that
22 investment.

23 I'm wondering, was this also considered in
24 there, the opportunity cost of all of the home --
25 the family caregivers who are going to step in, or

1 neighbors or whoever was going to step in, and do
2 this work voluntarily because somebody had to do it?

3 You know?

4 Is that calculated in there?

5 ILANA BERGER: It's not in the -- the CUNY
6 report that looked at those numbers does not look at
7 that.

8 So that's an even additional economic benefit
9 that is not quantified, at least in that report.

10 And from all of the numbers I've seen about
11 the amount of money taken out of the economy,
12 because of family caregivers, it's, you know,
13 billions.

14 So I think -- I would say that the CUNY
15 report's numbers are fairly conservative in terms of
16 the economic benefit of investing in this workforce.

17 SENATOR MAY: It would be great to fold that
18 in so that we can be telling the whole story when we
19 are advocating.

20 ILANA BERGER: As I said earlier, I, in fact,
21 only have a college degree, and I'm not an
22 economist. So we can set the economists back on
23 that one.

24 [Laughter.]

25 SENATOR MAY: Perfect.

1 ILANA BERGER: But I do also want to say to
2 that, in terms of the -- you know, the numbers and
3 the shortage that we're hearing, and you'll hear
4 more from people, that, you know, on the daily,
5 we're getting calls from folks who -- sometimes
6 family members step in, and sometimes people don't
7 have family members. And they're actually -- the
8 only option is either, you know, we have members who
9 are staying in bed for 24 hours, who can't get out
10 of bed without an aide.

11 And, ultimately, if you can't find somebody,
12 your only option is an institution. And that is not
13 where people want to go.

14 So we're in a real crisis right now.

15 SENATOR MAY: Right.

16 And to Sandra, I wanted to say thank you for
17 explaining how long-term-care insurance can work.
18 But what we're hearing is that a lot of the
19 companies are going belly-up.

20 People have invested in those, and they
21 aren't going to get the insurance anyway; or it's
22 not what it was cracked up to be.

23 So that's a whole nother area of health care,
24 where what we really need is the New York Health
25 Act.

1 But we have to look at that, like what --

2 SANDRA ABRAMSON: We knew how lucky we were.

3 SENATOR MAY: -- provisions can people make?

4 Sorry?

5 SANDRA ABRAMSON: We truly knew how lucky we
6 were.

7 I mean, when I said it was the platinum
8 policy, they didn't know what they were getting
9 into. I mean, we didn't know what they were getting
10 into either, obviously.

11 Sorry.

12 We didn't know what we were getting in --
13 they didn't know what they were getting into.

14 They paid out over \$630,000. It really was
15 the platinum policy.

16 No one can get that anymore.

17 SENATOR MAY: Don't feel sorry for them.

18 They were getting premiums from a lot of
19 other people.

20 SANDRA ABRAMSON: They were part of
21 General Electric. I don't feel sorry for them.

22 [Laughter.]

23 SENATOR MAY: Anyway, thank you-all.

24 Does anyone else have questions?

25 SENATOR SERINO: Thank you, all.

1 SENATOR BENJAMIN: Sure. Yes.

2 SENATOR MAY: Don't go anywhere.

3 SENATOR BENJAMIN: I'm sorry. I was -- I'm
4 sorry I didn't...

5 No, first of all, I want to thank you for
6 this testimony.

7 And I -- obviously, to Sandra, I really
8 appreciate hearing how much you did for Terry. And,
9 you know, in my heart, I believe that you should
10 have been compensated as well.

11 I do -- you know, I feel very strongly that
12 family caregivers, when possible, because I do
13 accept the fact -- I do understand that some don't,
14 is what you're looking for.

15 You know, my father-in-law passed. And his
16 wife and my wife were able to take care of him at
17 the end. And there's just -- there's the love that
18 you bring to that.

19 And so I want to just thank you for your
20 testimony, and for being here to help us as we're
21 figuring out the steps forward.

22 And, obviously, I'm a proud supporter of
23 fair pay for home care workers.

24 So thank you for being here.

25 ///

1 IGNACIA REYES: Now you can go.

2 All right. We have Panel 3 next, which is:

3 Mary Lister, Ignacia Reyes, and JoAnn Lum.

4 SENATOR RIVERA: By the way, folks -- folks?

5 By the way, just as a quick thing, folks
6 after you're done, you don't have to go up the
7 stairs again. There's actually an elevator a little
8 bit outside that door, because I want to make sure
9 that you're good. You know?

10 MARY LISTER: Thank you.

11 SENATOR MAY: All right. Let's start with
12 Mary.

13 MARY LISTER: Good afternoon. My name is
14 Mary --

15 SENATOR MAY: Touch the button. Make sure
16 the light's on.

17 SENATOR RIVERA: Say something.

18 One more time, just hit it once, and then say
19 something.

20 Say something, one more time.

21 Try it one more time.

22 MARY LISTER: Am I supposed to --

23 SENATOR MAY: Do it again.

24 SENATOR RIVERA: Press it slow, like, just a
25 little bit, just a little touch, just a little tap.

1 MARY LISTER: Hello?

2 SENATOR RIVERA: There you go.

3 I'll say it once again: We need to get new
4 damn mics.

5 SENATOR RAMOS: The austerity budget does not
6 allow for new technology.

7 MARY LISTER: Hi. My name is Mary Lister,
8 and I'm a home care worker from Buffalo, New York.

9 I'm a founding member of the Queens City
10 Workers Center, and I organize with other home care
11 workers throughout the state with the Ain't I a
12 Woman?! campaign.

13 I've been a home care worker now since 2013.

14 During this time I have served in so many
15 roles for so many different people.

16 I have been a community habilitation worker
17 for a young woman with cerebral palsy, assisting her
18 in achieving her career goals.

19 I've been a consumer-directed aide for an
20 older, non-verbal man who uses a wheelchair, helping
21 him get dressed every day, cooking him meals, and
22 cleaning up around the house.

23 One of the people I currently serve is an
24 older woman with advanced Alzheimer's who requires
25 assistance in every single task of daily living,

1 from eating, to toileting, to walking.

2 Not a single person goes into home care
3 because it pays well.

4 I've stayed in home care so many years
5 because I love it.

6 I enjoy assisting people to live the life
7 that they want with dignity and as much independence
8 as possible, and I'm good at it.

9 Most of my years as a home care worker
10 I earned minimum wage.

11 But I urge you to consider what is truly
12 necessary to grow the home care workforce, and to
13 make possible a real minimum-wage increase: an end
14 to the 24-hour workday.

15 Long work hours in any field are correlated
16 with increased workplace mistakes and on-the-job
17 accidents.

18 Many studies have found that, in the medical
19 field specifically, rates of injuries and mistakes
20 skyrocket during shifts longer than 12 hours.

21 In home care there is no such thing as a
22 small mistake.

23 A mistake in medicine could mean health
24 complications for the person receiving care.

25 A mistake in a transfer could mean a broken

1 hip.

2 And a mistake that injures the worker
3 themself can take us out of the field permanently,
4 creating this issue of a home care workforce
5 shortage to get worse.

6 The incidence of disability suffered by home
7 care workers is confirmed by a study by the
8 University of New Hampshire Institute on Disability
9 Statistics.

10 They found that home care was the industry in
11 New York City with the most workers to become
12 disabled. And New York State, home care was fourth.

13 24-hour shifts is causing more people to
14 become disabled and need in-home care.

15 Why this difference between New York City and
16 New York State, in general?

17 In Buffalo, where I'm from, and other upstate
18 cities, the 24-hour shift is not yet common.

19 Care recipients requiring around-the-clock
20 care have generally managed to get split shifts
21 rather than one worker doing 24 hours.

22 But if, as we are all hoping today, the
23 minimum wage for home care workers increases,
24 upstate home care agencies will have a huge
25 incentive to start implementing 24-hour shifts for

1 13 hours' pay.

2 This has got to stop.

3 If we want an end to the home care workforce
4 shortage, if we want a sustainable and a thriving
5 economy of care, then we have to put an end to
6 treating home care workers like disposable machines
7 to be used up and thrown out.

8 We need to not only raise the wage, but end
9 the 24-hour workday.

10 Please immediately support Assembly
11 Bill 3145, Senate Bill 359; legislation supported
12 by, and created in large part due to, the organizing
13 of home care workers that are here today.

14 Thank you.

15 SENATOR RIVERA: Could you please repeat the
16 bill number?

17 MARY LISTER: A3145, and Senate 359.

18 SENATOR RIVERA: 359.

19 MARY LISTER: I will double-check that; but,
20 yes --

21 SENATOR RIVERA: Thank you, ma'am.

22 SENATOR MAY: Ignacia.

23 IGNACIA REYES [ph.]: (Witness speaking a
24 foreign language.)

25 THE INTERPRETER: I'm going to translate for

1 Ignacia.

2 My name is Ignacia Reyes. I have been a home
3 attendant for 23 years; most of that, 24-hour
4 shifts.

5 And I come here to speak on behalf of all
6 workers -- home care workers who work 24-hour
7 shifts.

8 We can't continue with this. Many of us have
9 come out of this injured.

10 We've got to stop. It is inhumane. The
11 24-hour shift is inhumane.

12 And on top of that is the wage theft.

13 Cuomo didn't sign the bill that would have
14 helped to stop it. But this still goes on.

15 So we have got to stop both the wage theft
16 and the 24-hour shifts.

17 Thank you.

18 IGNACIA REYES [ph.]: (Witness speaking a
19 foreign language.)

20 (Translated to English by an interpreter, as
21 follows:)

22 Right now I am so injured, I can't go back up
23 those stairs. And I'm a member of 1199. They
24 really haven't done anything for us.

25 ///

1 IGNACIA REYES [ph.]: (Witness speaking a
2 foreign language.)

3 (Translated to English by an interpreter, as
4 follows:)

5 To the senators, please call Governor Cuomo.
6 Tell him he's got to sign that bill to stop the wage
7 theft.

8 IGNACIA REYES [ph.]: (Witness speaking a
9 foreign language.)

10 (No translation provided.)

11 JOANN LUM: Thank you, Senators, and other
12 participants, for convening this.

13 As you can see, people feel very passionately
14 about this question.

15 My name is Joanne Lum, and I'm here with the
16 National Mobilization Against Sweatshops, and part
17 of the campaign called "Ain't I a Woman Campaign,"
18 which Mary and Ignacia and I are all part of.

19 This is a campaign that's statewide, and it
20 includes workers groups, disability rights groups,
21 student group, women's groups, and others. And we
22 have been organizing for 20 years or so around the
23 valuing of caregiving and against long hours of
24 work.

25 And we're here today because we agree that

1 it's urgent for the government to address -- take
2 action to address the shortage of workers in home
3 care. And to value the work of caregiving, raising
4 wages is critical, it's needed.

5 But to make this wage increase real, we need
6 to end the wage theft that happens, for instance, in
7 24-hour shifts.

8 So many workers, like Ignacia, work 24-hour
9 shifts, don't sleep, and are paid for only 13 hours.

10 That means 11 hours for free.

11 So this renders the minimum-wage law
12 meaningless, this type of wage theft. So even if
13 you raise the wage, it just -- it also means more
14 wage theft.

15 We also, as part of the -- we need to end the
16 24-hour shift, also as Ignacia said, more
17 fundamentally; and at the same time, we need to hold
18 the scofflaw employers accountable.

19 As some previous people have spoken about,
20 there are a lot of agencies that don't comply with
21 the law, that don't do right by the workers.

22 And, actually, we've worked with hundreds and
23 hundreds of home care workers to file lawsuits and
24 labor complaints at the Department of Labor, exactly
25 for that reason, to recoup stolen wages, wages that

1 weren't paid, especially in these shifts of
2 24 hours.

3 And some of the workers have also initiated
4 protests against their agencies.

5 For instance, right now, the workers of the
6 Chinese-American Planning Council (CPC) have been
7 leading protests against their agency because they
8 still have not been able to recoup their stolen
9 wages after waiting six years, seven years almost,
10 you know, with a claim.

11 There are so many more with the same story,
12 and these are at union and non-union agencies, it's
13 so prevalent.

14 So we've already heard a little bit from
15 Ignacia about these 24-hour workdays. And Mary has
16 spoken to it also.

17 But we began in our campaign to see home care
18 workers coming forward about six or seven years ago.

19 At first it was about the wages not paid; the
20 overtime, the hours that weren't paid. But then,
21 more and more, they began talking about how the
22 24-hour shifts destroyed their health, as Ignacia
23 mentioned, destroyed their families; destroyed their
24 lives, basically.

25 And for those with no work or not enough

1 hours, these 24-hour workdays negatively impacted
2 them, too, because some people were overworked, and
3 then leaving other people with not enough
4 employment.

5 It also, these 24-hour workdays, sends a
6 message that there's no floor; that caregiving work
7 is so devalued that a woman can be made to work
8 every single hour of a day.

9 You know, it's no wonder so many refused to
10 be subjected to these conditions.

11 People earlier spoke about the pandemic, and
12 how it's made it worse for home care workers and us.
13 We've certainly seen that.

14 We saw so many home care workers come in to
15 us for PPE.

16 And we lost a few members to COVID in our
17 organization.

18 And because of the lack of protection in
19 their work, a lot of workers have decided not to
20 continue working in home care.

21 Also, many others, because of health problems
22 and illnesses as a result of years of working
23 24-hour shifts, they've decided to retire early.

24 Even before the pandemic, home care workers
25 were made to work 24-hour shifts for days on end at

1 half the pay.

2 And it's made them -- it made it hard -- many
3 people talked about how it's made it hard to provide
4 proper care --

5 We were talking about it earlier with some
6 other participants.

7 -- when you're sleep deprived, when you're
8 stressed.

9 SENATOR MAY: JoAnn, can you wrap up?

10 JOANN LUM: Sure.

11 So I just want to reiterate, then, that we
12 call on legislators and participants here today to
13 unite, to join forces, to call for wage increase, an
14 end to the wage theft, and an end to the 24-hour
15 shift, so that we can really show that we value the
16 work of caregiving.

17 Thank you.

18 SENATOR MAY: Thank you.

19 SENATOR RAMOS: Thank you so much.

20 I was wondering, JoAnn, if you could provide
21 a little more context for those at home who may be
22 watching, and are not aware about the 13-hour rule,
23 and how many home attendants are, you know, working
24 24 hours a day around the clock to care for these
25 folks.

1 Because, of course, even if the patient is
2 sleeping, sometimes they get up in the middle of the
3 night, they have needs, they need to use the
4 restroom, they need -- right?

5 So the home attendant has to get up as
6 well -- right? -- and do their job.

7 Can you talk about -- a little bit about the
8 court decision that took place, and kind of a little
9 back story?

10 JOANN LUM: Hello.

11 So at first there were -- back several years,
12 maybe six years, there were three court cases, state
13 court, where the workers -- there were workers who
14 were working 24-hour shifts, and bringing claims for
15 their owed wages, where the courts decided in these
16 three cases, it doesn't matter if you slept or not,
17 you should be paid all 24 hours.

18 And we celebrated.

19 But then, immediately, that -- the
20 Department of Labor issued emergency regulation to
21 say, no, no, no, that's going to bankrupt the
22 industry. We need to keep the 13-hour rule.

23 And so, subsequently, there were appeals to
24 those court decisions. It went to the highest court
25 in the state, and the highest court overturned the

1 lower-court decision.

2 So basically the law now, is that if you --
3 it's okay to work a 24-hour shift. You're entitled
4 to eight hours of sleep, five hours of which -- at
5 least five hours uninterrupted; plus three hours
6 uninterrupted meal break.

7 So it's very clear the law, actually.

8 But the problem is that, in reality, when
9 workers can't get that five hours' uninterrupted
10 sleep, and they report it, then they're either
11 ignored or they're threatened.

12 And there have been cases where agencies have
13 told the home care worker, put the patient to bed at
14 9 p.m., and just, you know, in the night, you know,
15 just go to sleep, because we're not paying you for
16 the night. And if there's a problem, call 911.

17 So there was one case, where the worker, of
18 course she is not going to ignore the -- I mean,
19 you're there to work, to be there on call.

20 And so she went as usual to help the patient.

21 And she reported that the next morning to the
22 agency, that she had to get up to help the patient,
23 and she was fired.

24 We subsequently were able to work with her to
25 get reinstated.

1 But this is just an example of what -- how,
2 on the ground, what is really happening, so that
3 workers are pressured to not report that you didn't
4 sleep.

5 SENATOR RAMOS: So do we know approximately
6 how many workers have been victim of this 24-hour
7 shift, and how many workers are owed wages?

8 JOANN LUM: You know, I don't have numbers.
9 Our worker center is very small, and we work with
10 other small worker centers.

11 But I would say, I mean, we have seen, like
12 I say, hundreds and hundreds and hundreds of
13 workers.

14 And we've filed claims for probably, in our
15 campaign, maybe more than a dozen agencies,
16 different agencies.

17 And like I say, some are unionized, some are
18 not unionized.

19 And those that are unionized are in different
20 unions. Some are Local 1303. Some are 1199. Some
21 are some other that I haven't really heard of.

22 But, anyway, it's a mixed bag.

23 But we have heard from others that
24 the percentage of overall cases that are 24 hours is
25 very small because -- and partly because the

1 managed-care companies don't really want to give
2 that a lot of times.

3 I mean, it's a big fight sometimes to be able
4 to get those hours for those who need it.

5 And so -- but now we hear that more and more
6 workers are actually feeling emboldened -- and maybe
7 it's because of the campaign -- but feeling more
8 emboldened to say no.

9 But the problem is that, all along, workers
10 have said that they took 24-hour shifts, not because
11 they like them, but because --

12 SENATOR RAMOS: They were pressured.

13 JOANN LUM: -- yeah, like --

14 SENATOR RAMOS: How -- how -- sorry, because
15 we do have limited time. Right?

16 How do you propose that not-for-profit
17 organizations with limited -- a limited operation
18 budget be able to, you know, compensate the workers
19 for their lost wages?

20 JOANN LUM: That -- they should just -- they
21 take on, that's the law, compliance with the law.
22 And maybe the government needs to help them on it.

23 But, I mean, one shouldn't operate a business
24 if you can't comply with the basic minimum wage and
25 overtime law.

1 SENATOR RAMOS: No, I agree with you.

2 I'm just thinking that if -- that if, you
3 know, an organization were to pay out, and then the
4 organization were to fold, then what happens to the
5 actual industry?

6 I'm just trying to think, you know, kind of
7 one thing after the other, chronologically.

8 So workers get the money that they are
9 owed -- that they're rightfully owed, but some of
10 these organizations and/or actual for-profit
11 businesses fold.

12 Then what happens to the industry?

13 JOANN LUM: Maybe they should work --

14 MARY LISTER: I can -- okay.

15 For at least some of these non-profit
16 agencies, there's a false misconception that they're
17 strapped for cash.

18 Some of them are very good at fundraising
19 money.

20 I'm sure some of them are strapped for cash.

21 But some of the worst -- the ones who have
22 stolen the most wages from their workers are
23 building a new building right now that's very
24 luxurious and nice, and their CEOs are making
25 upwards of six figures a year.

1 So it's hard for me to -- you know, I think
2 that the bottom line is, we are coming from worker
3 centers, and the law supports that we should get the
4 minimum wage for the time that we're working.

5 And that's not happening.

6 And so if --

7 SENATOR RAMOS: I understand.

8 But my question is about the future of the
9 industry.

10 So, again, you guys got your money --
11 right? -- assuming, you guys got your money, what --
12 who then -- and these organizations fold,
13 for-profit, not-for-profit, how does the industry
14 rise up because people will still need care?

15 So how would that -- I'm trying to -- I'm
16 trying to find the rebuttal to the DOL's assertion
17 that their emergency clause after the Court
18 decision, where they said, no, no, no, but wait a
19 minute.

20 What's the rebuttal to that?

21 JOANN LUM: Well, first of all, like I say,
22 there should be compliance of the law, and so they
23 should figure it out. And they should look into
24 maybe the profits of the managed-care companies.

25 You know, we've asked several different

1 venues, government agencies, to look -- investigate
2 into the money stream; Medicaid going to managed
3 care, going to the home care agency.

4 We can never get any numbers, so, who knows?

5 Like this was the redesigned -- Cuomo's
6 redesign of Medicaid back in 2012, was it?

7 SENATOR RIVERA: 2011.

8 JOANN LUM: 2011? Thank you.

9 And so that's where -- when the introduction
10 of the managed-care company into the system came in.

11 So maybe we should look at the profit margins
12 of that.

13 But I think it's problematic that many -- I'm
14 not saying you are, Senator Ramos, but many justify
15 the maintenance of these 24-hour workdays on these
16 women, you know, subjecting these women --
17 immigrants, women of color -- to 24-hour workdays
18 because we can't -- there's no money.

19 And that -- if -- if we're here -- I mean,
20 I think many of us here want to end violence against
21 women; we want to address racism and sexism in our
22 society; and then we subject 24 -- you know, women
23 of color, immigrants, to 24-hour workdays, what does
24 that say about us as a society?

25 SENATOR RAMOS: And how far back would you

1 want to go?

2 JOANN LUM: Well, the state labor law allows
3 five years going back, the statute of limitations.

4 So it's -- this is just the minimum, the bare
5 minimum. We're talking about just the minimum wage
6 and overtime that's owed.

7 So when we're talking about raising the
8 minimum wage, that's why we say, to make it real, we
9 need -- the law needs to be enforced.

10 And if it's not enforced already, then it's
11 just going to mean there's going to be more wage
12 theft.

13 That's our concern.

14 SENATOR RAMOS: Okay. A very valid concern.

15 Well, in my last 30 seconds, I want to assure
16 you that every Democrat on this dais right now is a
17 co-sponsor of S359, the bill that you are advocating
18 for for fair pay.

19 And we hope that the other senator joins us
20 too.

21 Thank you.

22 SENATOR MAY: Yeah, thank you so much.

23 I just have one comment that I want to make,
24 which is about the calling 911, if they said, you
25 know, if your sleep is interrupted.

1 And that's just a way of passing the cost on,
2 again, to the taxpayers.

3 I mean, if taxpayers are supporting the home
4 care, we're supporting the police at a much higher
5 level, and especially if they're getting overtime if
6 it's in the middle of the night.

7 And so the idea that you would just say, pass
8 that cost on over there, it all comes home to roost
9 with us as taxpayers.

10 So, all together, a broken system.

11 Thank you for bringing that to our attention.

12 SENATOR RIVERA: I've got a couple.

13 SENATOR MAY: Oh. Okay.

14 SENATOR RIVERA: Just -- I'm glad that
15 Senator Ramos pointed out we are all co-sponsors.
16 I am as well.

17 I wanted to ask you something about it,
18 though.

19 Is it -- it's perspective in nature; is that
20 correct?

21 Because if we're talking about the -- it's --
22 we can all agree that the 24-hour rule is a problem.

23 And we can also agree that it's the State
24 that's messing up, that -- by not changing the law.
25 Right?

1 The decision that was made regarding the
2 current state of affairs --

3 And correct me if I'm wrong, obviously,
4 because you know this much -- about this much
5 more -- more deeply than I do.

6 -- but the current state of affairs, that
7 decision that was made, basically said, the State
8 has to change the law to make sure this is -- that
9 this happens.

10 And so we're the ones messing up.

11 By passing -- if I'm not mistaken, if we pass
12 the bill, 359, it would solve the problem going
13 forward. It wouldn't necessarily serve to address
14 the issue of past salaries.

15 Is that correct?

16 JOANN LUM: Yeah, the law to prohibit 24-hour
17 shifts moving forward means split the shift, 12/12,
18 for two people; so, moving forward.

19 And it would indirectly address what has
20 happened in the past, because now there's less
21 chance of the wage theft because you have two people
22 working 12-hour shifts who need to get paid 12 hours
23 each.

24 But, right, as far as the compensation for
25 the six years going back, in those claims, that's

1 for each agency to resolve, to pay, pay it up.

2 You know, the workers were owed this amount
3 of money. They filed lawsuits, they filed
4 complaints, at the Department of Labor to resolve
5 those. Pay the workers.

6 SENATOR RIVERA: Got you.

7 And as far as the -- 'cause it's obviously --
8 it's -- I mean, I just want to make sure -- it's,
9 obviously, we're the ones that are messing up.
10 Right? The State is doing this.

11 By not passing this bill, we're making it so
12 that this is just -- that bad actors can then get
13 away with abusing their staff in a much easier
14 fashion?

15 JOANN LUM: That's true.

16 At the same time, we need to hold those bad
17 actors accountable, too.

18 I mean, for already actions already taken,
19 because there are, you know, very prevalent
20 violations of the minimum-wage basic wage law.

21 SENATOR RIVERA: But is it possible as well
22 that there are good actors who are caught in the
23 middle because the law is what it is right now?

24 MARY LISTER: So as JoAnn had mentioned
25 before, even under this law that we want to change

1 and we want to turn into split shifts, even right
2 now, the law says that, if a worker does not get
3 eight hours of sleep at night, or does not get five
4 hours uninterrupted sleep, you must be paid for all
5 24 hours.

6 And agencies still aren't doing that.

7 And so I think part of what we feel, is that
8 not only do we need to pass this bill to make sure
9 that, going forward, workers are not, literally,
10 worked into the ground; but, also, that for the
11 agencies who are flouting the law as it currently
12 stands, firing workers when they report having to
13 work at night, telling their workers not to help the
14 clients when it's during the nighttime hours, they
15 are breaking the law as the law stands.

16 And so I think that, for the workers working
17 for those agencies, they feel like, you know what?
18 This is day in, day out.

19 If any of these home care workers were to
20 break the law day in, day out, not only would they
21 be fired, they'd be in jail.

22 But, instead, these agencies are making
23 record-breaking profits, some of them. I know some
24 of them are struggling.

25 But, for us, the law is part of it, yes, the

1 State needs to step up, we need split shifts.

2 And, also, these agencies that are blatantly
3 breaking the law, and not paying the workers the
4 amount that they're owed when they're not able to
5 sleep, need to be held responsible as well.

6 SENATOR RIVERA: Okay. Thank you.

7 Thank you, Madame Chair.

8 SENATOR MAY: Thank you-all.

9 Mucho gracias.

10 All right, Panel 4 is Rebecca Preve,
11 Tara Klein, and Carlyn Cowen.

12 And we're going to ask Carlyn Cowen to go
13 first, if possible.

14 SENATOR SERINO: Can I ask you guys a
15 question --

16 SENATOR MAY: Yes.

17 SENATOR SERINO: -- on 359, because I'm not
18 on that committee?

19 So has that moved out of committee?

20 I don't know, Senator Ramos, do you have it?

21 SENATOR RAMOS: No, it has not.

22 SENATOR SERINO: Okay. That's why I didn't
23 know about it.

24 But I'm willing to take a look at it. I am
25 the sole Republican up here.

1 [Laughter.]

2 SENATOR MAY: Appreciate it.

3 SENATOR SERINO: Send that towards me.

4 SENATOR RAMOS: Thank you for your
5 consideration.

6 SENATOR SERINO: It hasn't moved, though, so
7 that's why I didn't know about it.

8 SENATOR MAY: So, Carlyn, can you go first?

9 SENATOR RIVERA: Just press it once, really
10 quickly.

11 SENATOR MAY: Really lightly.

12 CARLYN COWEN: Hello?

13 SENATOR RIVERA: There you go.

14 CARLYN COWEN: Good afternoon.

15 Thank you for the opportunity to testify at
16 today's hearing.

17 My name is Carlyn Cowan, pronoun saying she,
18 and I'm testifying on behalf of the Chinese-American
19 Planning Council (CPC) today.

20 I'm going to start with a personal story.

21 When I was 11, my mom got sick, like,
22 "couldn't get out of bed" sick.

23 She had to go on disability, and it took
24 years of doctors visits, PT, and more, before she
25 could do simple things like walk or change her

1 position unassisted.

2 My dad and I had to figure out care for her,
3 my chronically ill younger brother, and the
4 household, while, of course, still managing work and
5 school.

6 I tell this story because we all have a
7 "care" story here today. And if you don't have one
8 right now, you probably will.

9 Seven out of ten us are going to need
10 long-term care at some point in our lives, and it's
11 often earlier than we think.

12 New York State is aging rapidly.

13 By 2030, 5.2 million people in the state will
14 be 60 or older, not to mention more than 1 million
15 disabled New Yorkers that need care to live in their
16 homes with dignity.

17 The good news is that New York State is
18 constitutionally mandated to provide these services
19 to all New Yorkers because of the U.S. Supreme Court
20 Olmstead decision.

21 The bad news is that the State severely
22 underfunds the non-profit organizations and workers
23 they outsource these services to, and New York is
24 now the epicenter of the home care workforce
25 shortage crises, with a projected workforce shortage

1 of 83,000 workers by 2025.

2 The cause of this workforce shortage is
3 chronic low wages and poor working conditions
4 pervasive throughout the sector, a direct result of
5 State funding decisions.

6 According to the New York State Department of
7 Labor, the median annual salary for home care aides
8 is \$24,800.

9 The low wages chronic to the sector are
10 deeply rooted and directly connected to the systemic
11 devaluation of care work as work that is
12 traditionally performed by women; historically,
13 enslaved Black women in the United States.

14 Today the home care workforce in
15 New York State is 90 percent women, 75 percent
16 people of color, 67 percent immigrant, and the State
17 continues to enshrine the devaluation of care work
18 in its programs, practices, and reimbursement rates.

19 CPC, as well as its affiliated home care
20 organization, CPC Home Attendant Program, or
21 "CPC HAP," have four core recommendations to reform
22 the home care sector and build a just and caring
23 New York. CPC has been advocating on these issues
24 since 2017.

25 Number one: End the Department of Labor

1 24-hour rule.

2 One of the most urgent issues in the home
3 care sector is the 24-hour rule, where home care
4 workers are assigned 24-hour live-in shifts, and are
5 paid for 13 hours of work, with 8 hours allocated
6 for sleep, and 3 for meals.

7 This is based on a Department of Labor rule
8 that was upheld in a 2018 Court of Appeals decision.

9 CPC believes that no worker should have to be
10 away from their home for 24-hour shifts, and that
11 workers should be paid for all hours they work.

12 The State must immediately end the 24-hour
13 rule in favor of 12-hour split shifts, where home
14 care workers are fully compensated for each hour
15 worked, which can only be accomplished through
16 passing A3145, Assembly Member Epstein's bill;
17 S359, Senator Persaud's bill.

18 This will cost a billion dollars a year,
19 which is a fraction of the New York State
20 \$212 billion budget.

21 Non-profit home care organizations, like
22 CPC HAP, are 100 percent Medicaid-funded, required
23 to comply with all of their state contractual,
24 legal, and union agreements, and must provide the
25 type and hours of care assigned to each client by

1 Medicaid.

2 They cannot simply drop existing 24-hour
3 cases due to the Patient's Bill of Rights.

4 CPC HAP and many other nonprofits have
5 stopped accepting 24-hour cases, and strongly seek
6 authorization for 12-hour split shifts for existing
7 cases, but are more often than not denied by the
8 State.

9 This neither solves the problem for workers
10 who must work these shifts or people that need
11 round-the-clock care.

12 This is why the system must change to make
13 12-hour split shifts the standard instead of a rare
14 exception.

15 Number two: Pass Fair Pay for Home Care,
16 S5375, A6329.

17 Fair Pay for Home Care would raise home care
18 worker pay to 150 percent of the highest regional
19 minimum wage across the state, allowing workers to
20 remain in rewarding critical-care jobs instead of
21 making impossible decisions about moving to
22 higher-wage jobs in different fields.

23 It would also wipe out the home care
24 workforce shortage in less than five years, creating
25 20,000 additional jobs per year for the next decade,

1 according to a recent report.

2 Number three: Remove the arbitrary spending
3 cap on Medicaid, and fully fund Medicaid to meet the
4 needs of more than one-third of New Yorkers that
5 rely on it.

6 Rather than removing the spending cap, the
7 governor chose to cut a billion dollars in Medicaid
8 funding in the middle of a global pandemic.

9 Rather than remove the spending cap, the
10 governor has chosen to depress home care wages
11 through reimbursement rates and cause a workforce
12 shortage crisis.

13 By removing it, we can both fully fund our
14 home care workers and the people that need care.

15 And, number four, last, but absolutely not
16 least: Pass the New York Health Act, and guarantee
17 universal long-term care from day one for all
18 New Yorkers.

19 New York State has rationed care for far too
20 long, prioritizing government austerity and private
21 profits over our quality of life and dignity.

22 As a result, workers have suffered, older
23 adults have suffered, and disabled New Yorkers have
24 suffered, disproportionately women, people of color,
25 immigrants, and low-income New Yorkers.

1 But it doesn't have to be this way. New York
2 has the resources to fully fund Medicaid and
3 long-term-care services to meet their growing need
4 and its constitutional obligation to provide for it.

5 We don't have to choose.

6 We can, and we must, build a robust
7 long-term-care system, with good jobs where workers
8 can thrive, and seniors, disabled New Yorkers, and
9 everyone of us who needs home care can receive the
10 full care that we need in our homes with dignity.

11 Thank you.

12 SENATOR MAY: Senator Ramos has to leave at
13 4:00, and she has specifically asked [simultaneous
14 talking; indiscernible] --

15 SENATOR RAMOS: I apologize. I just -- you
16 know, I wanted to kind of see the whole of the
17 issue.

18 And I agree, I mean, a big part of the
19 conundrum of this money, you know, especially for
20 not-for-profit organizations, and not our for-profit
21 agencies -- right? -- is the fact that, you know,
22 the big guy on the second floor just insists on
23 chipping away at the money that we need in order to
24 care for each other.

25 So I'm wondering, is there anything else,

1 aside from that, that we can help -- that we can do
2 to help not-for-profits achieve the solvency they
3 need in order to do the right thing for the workers?

4 And I'm wondering if your organization has an
5 idea of how many of your home attendants are
6 impacted by this 13-hour rule, 24-hour shift.

7 CARLYN COWEN: Absolutely.

8 So CPC HAP, which is an affiliated
9 organization --

10 I'm at CPC, the social services agency, just
11 to clarify.

12 -- has fifty-four 24-hour cases that are
13 staffed by about 130 workers.

14 There are about 11,000 cases across New York
15 State, staffed by about 33,000 workers.

16 So while it is, you know, a small portion of
17 home care across the state, it's still a very urgent
18 issue because, as you heard from the previous
19 testimonies, we have workers working under these
20 conditions that they shouldn't be, and in homes for
21 24 hours without getting compensated for all the
22 hours of their labor.

23 So non-profit home care agencies, like
24 CPC HAP, as I mentioned, are 100 percent
25 Medicare-funded [sic], which means all of the

1 funding is tied to Medicaid rules and
2 reimbursements, and then, of course, they're subject
3 to union agreements, Department of Labor laws,
4 et cetera.

5 CPC has been advocating -- first, we were
6 actually advocating, when the court cases were going
7 through the Court of Appeals decision that
8 I mentioned, for the State to pay back wages for the
9 workers to make up for the gap between the 13 hours
10 that Medicaid pays for the time in home, and then
11 the remaining hours that, you know, Medicaid calls
12 "sleep, and break, mealtime, hours" and doesn't pay
13 for.

14 So at CPC HAP, if a worker gets interrupted,
15 at the first reported interruption, CPC HAP pays out
16 the full hours for between the 13 and the 24.

17 But that's not the standard across the
18 industry. And I think that those are some of the
19 problems that you heard about in the previous panel.

20 And the only way to make it a standard across
21 the industry is to have a standardized across
22 Medicaid rates.

23 So we were initially advocating for the state
24 to fund back wages, which would have cost
25 \$6 billion.

1 The Court of Appeals decision essentially
2 meant that the State was upholding its own
3 Department of Labor law.

4 And so, since then, we've been pushing on the
5 A3145, which is the bill to end the 24-hour rule.

6 That would solve the issue going forward,
7 but, of course, it would not deal with retroactive
8 compensation.

9 I think that -- I'm not a legal scholar, I'm
10 a humble advocate, but I think that there's a very
11 difficult path, legally, to what that would look
12 like, based on the Court of Appeals decision. But
13 I think there a lot of people that are more expert
14 than me on that.

15 But that's why we're really focusing our
16 efforts on moving forward ending the 24-hour rule
17 and increasing wages for home care workers.

18 Thank you.

19 And I apologize that I have to run, but
20 I have to go back to the city.

21 Thank you.

22 Good to see you-all.

23 Good to see you, Tara.

24 SENATOR MAY: Next we have Becky Preve.

25 And you're not going to read your testimony;

1 right? This is like 90 pages here.

2 So -- okay.

3 REBECCA PREVE: Is this on?

4 Perfect.

5 No, Senator May, I would never do that to
6 you.

7 First and foremost, I want to say thank you
8 to Senator May, Senator Rivera, and Senator Ramos
9 for hosting what is really a very important hearing
10 on this issue.

11 My name is Becky Preve. I'm the executive
12 director of the Association on Aging in New York.
13 We're a not-for-profit membership organization that
14 represents the 59 Offices for the Aging throughout
15 New York State.

16 Our network leverages over
17 1200 community-based organizations, and I'm here
18 today on behalf of this network, and the massive
19 issue we are facing with a lack of direct support
20 professionals for our community.

21 The services provided by local Offices for
22 the Aging are predicated on ensuring individuals are
23 able to age in place with autonomy, dignity,
24 self-direction, and respect.

25 Our home care services are part of Medicaid

1 prevention, which is something that hasn't been
2 talked about at length today, that I think is very
3 important.

4 We provide home care services for individuals
5 that do not qualify for Medicaid, but don't make
6 enough money to actually privately pay for those
7 services. So we're able to provide Personal Care
8 Level 1 and Personal Care Level 2 services for
9 anyone over the age of 60 that qualifies for our
10 programs and services.

11 This distinction is important, as our
12 services have been proven to prevent future Medicaid
13 costs, which is what a lot of us have been talking
14 about for years. And we also include a significant
15 cost share to the State, as far as what skilled
16 nursing facility placement costs for nursing home
17 residents, and the State's share of New York State
18 Medicaid to that program.

19 Our average client is actually an 83-year-old
20 female who lives alone, who has substantial
21 limitations taking care of activities of daily
22 living, such as bathing, toileting, dressing, meal
23 preparation, grocery shopping, et cetera.

24 The average client also has four or more
25 chronic conditions, and they typically qualify for

1 skilled nursing facility-level care.

2 Another alternative that we see in the
3 community is some individuals who are forced to
4 actually spend down to Medicaid or MLTC services in
5 order to access them.

6 And our network knows from our own client
7 data that about 10 percent of people who are waiting
8 for services through our network in New York State
9 go directly to a skilled nursing facility without
10 ever touching another level of care, at a very high
11 cost to the Medicaid system. An additional
12 6 percent are forced to spend down all of their
13 resources to access MLTC plans in their community.

14 We do know that the state savings to Medicaid
15 just for this 10 percent equals about 70 million
16 per year, and that the home care workforce crisis
17 is impacting our network significantly across
18 New York State.

19 We utilize the same home care-licensed
20 agencies as Medicaid providers, and we're already at
21 an unlevel playing field when we start for home care
22 services, as our traditional authorizations are much
23 lower than Medicaid, and we attempt to serve as many
24 individuals as possible under a fixed-budget
25 structure.

1 A lot of people have talked about the
2 demographics of aging today. I think it's really
3 important.

4 New York State is actually fourth in the
5 nation with the over-60 population.

6 And as referenced earlier, since this data
7 has indicated that the fastest growing segment of
8 that population is actually the 80-plus, and when
9 you look at the overall growth projection through
10 2040, New York State's going to grow by about
11 1.3 percent, but the population over the age of 80
12 is going to see a 42 percent growth in that time
13 period.

14 We also know that about 70 percent of the
15 older population will need some form of home care
16 during their lifetime, and that these home care
17 services prevent emergency department utilization
18 and transitions to skilled nursing facility care.

19 In addition to the explosion of the aging
20 population, we're faced with a massive direct-worker
21 shortage.

22 The number of home health aide and personal
23 care jobs projected to rise from about 440,000 to
24 over 700,000 by 2028.

25 In addition to this need, home care agencies

1 have to recruit an additional 70,000 aides just to
2 replace those leaving the field each year.

3 In a survey done in the fall of 2020,
4 85 percent of participating agencies indicated
5 worsening staff shortages.

6 This data is staggering when you take into
7 account the growth in our aging population, the
8 demand for workers, and the unbelievable shortages
9 that we're seeing across the state.

10 In an effort to focus data-informed metrics
11 regarding the economic impact of the home care
12 workforce crisis, we worked on two research
13 projects, which I did provide in the written
14 testimony. They have been cited today, the CUNY
15 report and Cornell report.

16 I wanted to touch base very quickly on the
17 Cornell University report from 2018, that looked at
18 safety net programs that direct workers are
19 dependent upon, based on their annual salary of
20 about \$20,000 per year.

21 The annual savings, if workers are paid a
22 living wage of \$35,000, just in Medicaid and SNAP
23 alone, would be 665 million.

24 In addition, the 2020 CUNY study looked at
25 the economic spillover of increasing direct-worker

1 wages in two areas, so we looked at different
2 benchmarks.

3 Target one was, to raise workers in
4 New York City to \$40,000, 35,000 for Long Island and
5 Westchester, and 30,000 for the rest of the state.

6 Again, this was referenced earlier, the cost
7 to implement these wage increases would be
8 \$4 billion, but the economic turnaround benefit is
9 \$7.6 billion in return.

10 Target two of the study took this a step
11 farther, which I wholeheartedly agree with. They
12 looked at \$50,000 for New York City, forty-five for
13 Long Island and Westchester, and \$40,000 for the
14 rest of the state.

15 Cost is 6.3 billion, but when you look at the
16 economic benefit, we're over 12.9 billion in return.

17 So you're looking at a net gain between
18 3.7 and 6.6 billion.

19 I also wanted to just mention, Senator May,
20 that we have about 4.1 million unpaid caregivers in
21 New York State. Their economic value is worth
22 \$32 billion.

23 The economics of this issue are extremely
24 important; however, numbers do not take into account
25 the human and emotional toll that a lack of

1 workforce causes. This is one issue that all
2 service providers, regardless of payer source or
3 population base, are in agreement on.

4 The disability and aging communities are both
5 dealing with an overwhelming lack of direct support
6 professionals that leave us paralyzed to help those
7 we were tasked with advocating for.

8 These workers are caring for our friends and
9 loved ones, and are responsible for assisting with
10 the most intimate personal-care needs. They have to
11 be passionate about their work, extremely caring,
12 and extremely patient. And for far too long this
13 workforce has been marginalized and underpaid.

14 They are heroes, need to be paid a living
15 wage, to ensure we are able to care for our most
16 vulnerable populations with compassion.

17 SENATOR MAY: I'm going to ask you to wrap
18 up.

19 REBECCA PREVE: It's wonderful to see that
20 our minimum wage has increased in both the public
21 and private sector.

22 Everyone deserves a living wage; however,
23 I find it troubling that I paid more to wash my car
24 this morning than a direct worker is paid for an
25 hour of their time.

1 Now it's time to do something about this
2 issue.

3 Thank you very much.

4 TARA KLEIN: Thank you, and good afternoon.

5 Thank you so much for hosting this hearing.

6 My name is Tara Klein. I am a senior policy
7 analyst with United Neighborhood Houses (UNH). We
8 are a policy and social-change organization that
9 represents 44 neighborhood settlement houses across
10 New York.

11 My testimony will focus on the economic
12 crisis facing non-profit home care providers due to
13 state funding and policies that perpetuate near
14 poverty wages, and unfairly pit home care workers
15 and employers against one another.

16 Three UNH member organizations provide
17 non-profit home care services to their communities
18 as State-licensed home care services agencies,
19 including CPC -- and I will echo a lot of what
20 Carlyn shared in their testimony -- as well as
21 St. Nick's Alliance, and Sunnyside Community
22 Services.

23 Together, every year, these settlement houses
24 provide services to over 4500 individuals and nearly
25 7500 workers throughout New York.

1 While the home care industry is comprised of
2 both for-profit and non-profit home care agencies,
3 these community-based organizations serve distinct
4 roles.

5 Embedded in settlement houses, these
6 organizations serve their neighborhoods with
7 culturally competent care, and offer many important
8 wraparound services and programs beyond home care,
9 including early childhood education, youth
10 development programs, adult literacy classes, senior
11 centers, and more.

12 New York's home care industry is at a crisis
13 point.

14 The number of older adults is growing, while
15 demand for home care is increasing as the preferred
16 method of care.

17 Meanwhile, there is a looming workforce
18 shortage due to a systematically underpaid workforce
19 comprised largely of women of color and immigrants.

20 These poor wages are predominantly due to
21 state policies, including low Medicaid and MLTC
22 reimbursement rates, a 1 percent cut to the sector
23 last year as part of the MRT2 process, as well as
24 the Department of Labor's 13-hour rule of 13 hours
25 of pay for a 24-hour shift.

1 Non-profit home care providers in particular
2 are stymied by these policies, unable to pay the
3 fair wages they know their workers deserve due to a
4 lack of funds.

5 I want to share a couple of recommendations
6 that UNH offers to stabilize and strengthen the
7 sector, while ensuring non-profit providers are able
8 to remain financially viable.

9 These recommendations are all going to
10 require some financial investments, but it's the
11 State's responsibility to do this, and they really
12 need to step up to the plate here.

13 So, first, we need to eliminate the Medicaid
14 global spending cap.

15 Any significant home care payer form is going
16 to require additional funding and Medicaid support.
17 This can't happen without eliminating the global
18 cap.

19 Next, UNH supports the Fair Pay for Home Care
20 bill sponsored by Senator May, which we've heard
21 about today.

22 This would ensure that home care workers are
23 paid uniform and fair wages across the state.

24 Really critically, this bill includes a
25 funding mechanism by establishing a fund and

1 subsidizing Medicaid payment rates when necessary.
2 This will ensure that pay rates are funded through
3 reimbursement rates and do not unfairly fall on the
4 providers.

5 UNH also supports the split-shifts bill,
6 which we've been talking about, by Senator Persaud
7 and some [indiscernible], which would cap home care
8 worker shifts to 12 hours in most cases.

9 This would really help rectify the problems
10 with the 13-hour rule, by capping the number of
11 hours an employee -- an employer can require a
12 worker to work at 12 hours; cumulatively, 50 hours
13 per week.

14 This would massively reduce, if not totally
15 eliminate, the number of 24-hour shifts.

16 We also -- we need to end the 13-hour rule
17 and fully fund 24-hour care.

18 While we believe that 24-hour shifts should
19 be the rare exception and not the norm, and
20 absolutely never forced, home care workers simply
21 should be paid for every hour they work; it's very
22 simple.

23 This is going to require the Department of
24 Labor ending the 13-hour rule so Medicaid and MLTCs
25 can legally reimburse for all 24 hours in a 24-hour

1 shift.

2 The State must also increase Medicaid funding
3 and reimbursement rates to cover the full and actual
4 hours worked, including potential overtime hours,
5 and this needs to be done through the budget.

6 Next, there is a need for the State to do
7 better data collection and evaluation.

8 We also believe there's a role for
9 industry-wide oversight that can be looked at,
10 including a short-term task force, and possibly a
11 permanent oversight office or position.

12 And then, finally, a little off-course here,
13 but I wanted to mention that homebound older adults
14 and people with disabilities require a continuum of
15 services and interventions to live healthy and
16 meaningful lives.

17 Many people who receive home care services
18 also, at some point, rely on local
19 home-delivered-meals programs to combat food
20 insecurity and receive additional supports.

21 But, unfortunately, the state's
22 home-delivered-meals programs are systemically
23 underfunded, leaving the workforce in a similar
24 position as the home care workforce, with non-profit
25 employers unable to pay fair wages or maintain

1 stable programs due to unjust budget -- government
2 budgeting and policy decisions.

3 And so we wanted to thank the legislature for
4 including \$8 million in this year's budget to
5 address some of the unmet needs for home-delivered
6 meals and other services.

7 But advocates estimate that the full unmet
8 need this year was closer to \$27 million.

9 And so we hope, moving forward, the State
10 will make a serious investment into this workforce,
11 as well as the home care workforce.

12 So thank you very much.

13 SENATOR MAY: Great. Thank you-all so much.

14 I don't want to take a lot of time, but
15 I want to ask Becky something about, it's kind of a
16 follow-up to what Tara was saying.

17 So home-delivered meals, for example, are,
18 seemingly, a pretty simple intervention that can
19 keep some people in their homes. Right?

20 It could be just that, or one or two services
21 like that; that if they could just get access to
22 them, then the savings -- just speaking
23 economically, the savings to Medicaid would be
24 enormous, because they wouldn't end up having to go
25 into institutional care.

1 So what happens when an older adult, say,
2 needs one or two of those services, and can't get
3 them?

4 REBECCA PREVE: So what we have seen,
5 especially throughout COVID, is, essentially,
6 a 70 to a 90 percent increase in the demand for
7 aging services.

8 So that's something that we were able to turn
9 on with some federal dollars, as well as the
10 additional State investment.

11 What I can tell you, as far as access to very
12 basic services:

13 So, in many instances, a discharge plan from
14 an acute-care facility may require a daily check-in.

15 Well, that's your home-delivered meal
16 program.

17 Could we also put in a personal response
18 system?

19 Very, very low-budget items. Correct?

20 But what happens is, when you, essentially,
21 have that client, and you can't turn the service on,
22 you then stopped the safe-discharge plan for
23 miniscule dollars per day.

24 When we talk about the home care lens, what
25 we have really struggled with across the network is,

1 you know, we really try and prevent spend-down to
2 Medicaid, because Medicaid, obviously, has a place
3 that is very expensive. And we can support our
4 customer who qualifies for skilled nursing
5 placement, between six and nine thousand dollars per
6 year, on aggregate.

7 The problem that we're running into,
8 especially with licensed home care agencies, is --
9 you know, there's been a lot of conversation about
10 the direct workers themselves. But a lot of these
11 licensed home care agencies are nearing bankruptcy
12 and they can't, you know, hardly make payroll.

13 And so what they are telling us, this
14 actually just happened in Ontario County this
15 morning, they are no longer taking Office for the
16 Aging-authorized cases. They're only taking
17 Medicaid cases with extended authorization periods.

18 So it puts the aging network, who's
19 predicated on saving Medicaid dollars in the
20 long term, at a huge disadvantage, because now we
21 don't even have access to the same number of home
22 care workers.

23 And so that's something, you know, we're
24 really working closely together as advocates.

25 I think this is probably the first time we've

1 had a consolidated "disability, aging, payer source"
2 conversation, because we're all saying the same
3 thing, is that this is a massive issue.

4 And, you know, I know many of us were here
5 back in 2016 when we had two hearings -- one in
6 Albany, one in New York City -- that went well over
7 10 hours, talking about the exact same issue, which
8 is, we don't have a robust workforce.

9 "The New York Times" said in 1987, we were
10 headed to a crisis.

11 We're now in 2021, we're at a crisis.

12 And we really need to facilitate some type of
13 change, not only because of the economic cost, but
14 because of the human cost to these individuals who
15 are told, You're authorized for this service, but,
16 we're sorry, we can't serve you.

17 It's unjust for the community.

18 SENATOR MAY: Right. Well, thank you.

19 I have to say, when I -- I joined the
20 Health Committee this year, and one of the shocking
21 things was to learn that there really are two health
22 budgets when we do -- there's the budget that is the
23 public health budget, that is all the preventive
24 side of things, and then there's Medicaid budget.
25 And we don't get to, like, do cross-accounting.

1 So if you're -- if you know, if you invest
2 more in prevention, you're going to save way more
3 than that on the Medicaid budget, it doesn't matter;
4 we can't make that argument.

5 So we have to figure out how to do the smart
6 budgeting.

7 REBECCA PREVE: Well, I do like to highlight
8 the fact, that if you look from an economic
9 standpoint, and my colleague Ilana raised this,
10 we've all become economists -- right? -- because how
11 else do you talk about this issue to get some teeth
12 behind it?

13 And the economic lens is really something
14 that has gained attention.

15 And, you know, when we worked with CUNY on
16 the CUNY report, it is startling data, that you're
17 going to double your money in the billions by an
18 investment.

19 To me it seems, like, stop being reactive to
20 these issues, and losing nursing home beds, and
21 licensed home care agencies going bankrupt.

22 Why not do the investment on the front end to
23 gain long-term gains, which is exactly what I know
24 you support, as well as your colleagues.

25 So, thank you.

1 CARLYN COWEN: Can I add to that as well?

2 SENATOR MAY: Uh-huh.

3 CARLYN COWEN: So CPC's social services
4 agency has a home-delivered-meals program for
5 seniors that we've done for years. And it's been
6 chronically underfunded by the City and State, for
7 years, to the extent that our senior services
8 director calls it "Meals on Heels" because we cannot
9 actually get the funding to repair the trucks that
10 we would, theoretically, deliver Meals on Wheels in.

11 And there have been seniors on the wait list
12 for those services for years.

13 And during the pandemic, we were immediately
14 flooded with calls from, you know, hundreds and
15 thousands of seniors that needed delivery. And
16 there was no funding for it.

17 And CPC and other nonprofits found donations.

18 We had all of our staff running around all
19 five boroughs, delivering meals to people; money
20 that we'll never get reimbursed by the City or by
21 the State.

22 And nonprofits have been doing that for years
23 and years. But, during the pandemic, it grew to a
24 whole other level.

25 So when we talk about the cost of

1 underfunding, you're not even talking about how much
2 the State is actually underfunding the program,
3 because you're not even considering all of the work
4 that nonprofits are doing that will never get
5 reimbursed.

6 And we have so many seniors that are on the
7 wait list for services, whether it's for meals,
8 whether it is for home care, or more, and it's,
9 literally, someone's life on pause.

10 And we do, you know, thousands of welfare
11 calls every week to our community members.

12 And we know that if we lose touch with
13 someone because they weren't able to pay their phone
14 bill, or whatever else, that they might not be
15 getting the services they need; and it's, literally,
16 someone's life on the line.

17 And that's not even taking into account when
18 we talk about how much it's underfunded.

19 SENATOR MAY: Right.

20 TARA KLEIN: And I can just quickly add that,
21 in New York City, we have analyzed that
22 home-delivered-meals programs are reimbursed by the
23 City about 20 percent less than their actual cost of
24 doing business.

25 So programs are actually losing money on

1 this -- on these programs. In some cases it's
2 hundreds of thousands of dollars.

3 And I think, as Carlyn just mentioned, during
4 COVID it's gotten much worse, even with the GetFood
5 program in New York City.

6 And so this is really a longstanding program
7 that is bubbling up and getting worse right now
8 during COVID as more people are experiencing food
9 insecurity.

10 So we really need to make those investments
11 now.

12 SENATOR MAY: Okay. Well, thank you.

13 Thank you-all for the work you do.

14 And anyone else have --

15 SENATOR RIVERA: I just will make one quick
16 comment.

17 Thank you for being here.

18 And to -- you -- I think all of you
19 underlined something very basic, which is that we --
20 you know, it's been said a thousand times, but
21 I guess it needs to be said one more time:

22 In this state, unfortunately, and it has to
23 do with the executive, let's call it what it is, we
24 have been consistently penny wise and pound foolish.

25 The idea that there is so much money that we

1 could be saving if we actually invested the money up
2 front is not an expense; it is investment.

3 An investment in things like, funding the
4 workforce the right way, funding those service
5 providers who are actually doing -- were actually
6 doing the work, that will actually -- investing in a
7 program like providing meals to seniors, et cetera,
8 all of these things are not expenses. They're all
9 investments that will get us better communities,
10 better quality of life for those communities.

11 And if we only had somebody to follow the
12 long-term, and not just about the budget right this
13 second, we would actually be in a better place.

14 Would that be accurate to say?

15 Okay.

16 I said it.

17 I said it, sir. Hi.

18 They're watching, so, Hi.

19 Thank you, Madam Chair.

20 SENATOR MAY: Okay. Thank you.

21 Thank you-all.

22 And as I keep saying, thank you for the good
23 work you do, too.

24 So we have five more panels to go, and about
25 18 more people.

1 I want to urge folks, I value what you have
2 to say, but if you can, like, not repeat things that
3 have been said before, and really focus us on what
4 new you have to contribute, that would be really
5 helpful. And I will try to keep my questions to a
6 minimum, too.

7 So our next panel is Claire Pendergrast,
8 Melissa Wendland, and Jean Moore.

9 Why don't you just get started, Claire.

10 MELISSA WENDLAND: Thank you for today's
11 conversation.

12 As you mentioned earlier, this is overarching
13 with long-term care and home care, and that's
14 exactly what we're looking at in Rochester and the
15 Finger Lakes Region.

16 Thank you for your visit a couple of years
17 ago as we were talking about the health-care
18 workforce and what we were looking at in terms of
19 home care.

20 I'm Melissa Wendland. I'm the director of
21 strategic initiatives at Common Ground Health,
22 formerly Finger Lakes Health Systems Agency.

23 We are a health research and planning
24 organization that has served the nine-county
25 Finger Lakes Region for over 40 years.

1 We work to collaborate with leaders in health
2 care, insurance, government, business, consumers,
3 and look at the region's most pressing health
4 challenges.

5 Analysis of quantitative and qualitative data
6 is the core of our work, and foundational to driving
7 a fact-base understanding of issues that foster our
8 planning and programs.

9 We track trends; raise awareness to the
10 health inequities of our region faced by
11 marginalized communities in rural, suburban, and
12 urban areas. This includes our growing aging
13 population and those that serve this population.

14 Ten years ago, in 2011, Common Ground Health,
15 then Finger Lakes Health Systems Agency, convened
16 the Sage Commission to development a comprehensive
17 long-range plan for aging-health services in the
18 Finger Lakes.

19 Central to that plan at the time were
20 objectives at creating person-centered care that
21 accommodated those 65 and older, taking into
22 consideration their preferences to live in the
23 least-restrictive setting, delay institutional care,
24 and allow older adults to remain in the community as
25 long as possible.

1 We worked with partners developing an
2 interactive modeling tool that looked at the
3 economics of what would be required in 2030.

4 Ten years into it, we're looking at what
5 we've done, that's worked well, what's been
6 successful, what's changed in the community, and
7 what we need to focus on moving forward.

8 You have my report.

9 We've talked a lot about earlier testimony,
10 looking at the multiple challenges that we're
11 facing.

12 The key for us was, 10 years ago, we
13 underestimated the severity of the impact of our
14 growing population, the decline in available family
15 caregivers, the fragmented and unsustainable methods
16 to pay for our care, the workforce shortage, and the
17 health-care disparities that exist among our elders.

18 The number and percentage of people of color
19 in the older population is increasing even faster,
20 and serious health-care disparities exist among our
21 Black and Brown communities.

22 The city of Rochester has a 36 percent
23 increase in its older adult population over the past
24 decade. It's the highest rate of increase of any
25 major city in New York State. With the highest

1 poverty rate of any city, at 31 percent, the number
2 of older adults in poverty in Rochester has
3 increased by 38 percent.

4 Poverty among older adults is rarely
5 discussed, and the impact to the community is
6 magnified as these seniors are often caregivers for
7 multigenerational families.

8 This is significant right now for us,
9 particularly given what has happened as a result of
10 COVID.

11 There has been strides that have been made
12 and recognized by the State from our first report in
13 2011, but we have a long way to go -- "a long way to
14 go."

15 And we would like to take this opportunity to
16 say a crisis is a terrible thing to waste.

17 We would love the opportunity to come
18 together and partner with you.

19 I thank you for sharing and reading the
20 report.

21 There's two things that I want to walk away
22 with today.

23 The highest demand in health care in our
24 Finger Lakes Region is home health aides.

25 It is essential for fair pay and competitive

1 wages for these essential workers.

2 The continuation of the decade-long struggle
3 to fill direct-care positions and stabilize our
4 essential workforce needs to improve.

5 I'd also like to say that we recognize
6 long-term-care costs are unsustainable for
7 governments, and the vast majority of people lack
8 the resources to privately pay.

9 We have recommendations of what to do, and
10 that's included in my report.

11 Finally, I would like to say, long-term care
12 needs to be a person-centered coordinated and
13 seamless across all various care-delivery sites,
14 with a focus on supporting those that we are serving
15 in our most vulnerable populations.

16 Thank you.

17 SENATOR MAY: Thank you.

18 And, Claire.

19 CLAIRE PENDERGRAST: Hello.

20 Senator May, Senator Rivera, such an honor to
21 be here. Thank you for the opportunity to testify.

22 My name is Claire Pendergrast. I'm a Ph.D.
23 student in sociology at Syracuse University. I'm
24 also a graduate fellow for the Lerner Center for
25 Public Health Promotion.

1 My research focuses on the aging network,
2 which as Ms. Preve just described, is a
3 comprehensive network of service providers that aim
4 to keep older adults in their homes and communities
5 as long as possible. And, often, that is something
6 like a home-delivered meal, or a home repair, that
7 can enable someone to be more mobile around their
8 house, rather than having a fall that could end them
9 up in the hospital or in a nursing home.

10 And so in my remarks today I will summarize
11 my recent research on the value of community-based
12 services for older New Yorkers, their families, and
13 their communities, and public budgets.

14 Per request to skip redundant things, I will
15 not tell you about exactly how much the population
16 is aging.

17 I will say it is aging faster in rural areas.

18 And that that's an important conversation
19 because, when a larger share of the population is
20 older, and also the working-age population is
21 declining, folks moving away for work opportunities
22 or education, there's often a growing care gap,
23 where family members who would love to support their
24 relatives simply are not there.

25 And, similarly, as we see demographic trends,

1 there is a growing care gap amongst the population
2 as a whole, because folks having fewer children
3 means the ratio of potential caregivers to folks in
4 need of care is just untenable. And that requires
5 us to acknowledge the unpaid care that family
6 members have been providing for so long. And that
7 will fall onto formal services.

8 And so community-based services address a
9 continuum of care needs, and I think that's really
10 important because, for many folks it is in-home care
11 that is on a daily basis; but, for others, a very
12 small investment that can provide these supports,
13 can keep someone from having this precipitating
14 health crisis, requiring institutionalization,
15 which can also reduce strain on family caregivers
16 who often are doing a lot work, but simply can't
17 shoulder it all by themselves.

18 And research also supports that that is
19 skillful and emotional labor, particularly
20 navigating dynamics with family members who are
21 there, encouraging folks to accept services they
22 might be initially averse to accepting, because it
23 acknowledges a lack of independence, and that's
24 challenging.

25 So the interviews I've done, I've just been

1 pretty struck by the trust that is built from kind
2 of an objective source of information, who can
3 recommend the appropriate care, and kind of guide
4 people through that process.

5 Or, I did an interview with someone who had a
6 client with a raccoon that was coming up through her
7 trailer, and she needed a repair. And the process
8 of getting her to the appropriate repair agency was
9 a whole ordeal. And she was patient and kind, and
10 felt as though her support with that solved a
11 problem that otherwise never would have been solved,
12 and could have been a precipitating health crisis.

13 And per previous conversations, several
14 studies have shown that there is definitive Medicaid
15 savings from investments in the Older Americans Act,
16 home-delivered meals specifically, and also in-home
17 care.

18 A Brown University study found that
19 Title III, which includes meals, spending on
20 Title III programs saved \$109 million in the
21 Medicaid budget. And that's probably increased
22 since that study was done by keeping low-care-need
23 folks out of nursing homes.

24 And it is also really important, as we have
25 heard a lot, that investing in the home care

1 workforce is critical to keeping folks in their home
2 communities -- homes and communities.

3 That's especially important in rural areas,
4 per previous conversations, that family members
5 might be less available there, but, also, there are
6 fewer working-age folks to hold those jobs.

7 Also in my interviews I have heard that,
8 given the low wages home care-makers receive, they
9 often can't maintain vehicles in the way that they
10 would like to.

11 There are long travel times between clients.
12 Folks mentioned care workers not being paid for
13 their travel time.

14 And so all of these add up to what is already
15 a crisis. And I think that a holistic policy
16 solution is needed, but specific attention to the
17 needs of rural communities is really important.

18 In summary:

19 New York State's population is aging, and so
20 this increasing demand means we need more home care
21 workers, and just community-based services.

22 And investing in those proactively is
23 critical. They have been underfunded, and that is a
24 real cost just to people's everyday lives. Their
25 families who will pick up those care needs when they

1 possibly can, and that is a cost to family members,
2 as COVID has shown us.

3 And, thank you for the opportunity to
4 participate in your deliberations on this important
5 topic.

6 SENATOR MAY: Great. Thank you both.

7 Any questions?

8 SENATOR RIVERA: I'm good.

9 SENATOR SERINO: Thank you.

10 MELISSA WENDLAND: Thank you.

11 CLAIRE PENDERGRAST: Thank you.

12 SENATOR MAY: Okay. Appreciate your waiting
13 till this point in the day to do your testimony, and
14 being timely about it.

15 Are you Jean?

16 Is Jean Moore here?

17 No.

18 Then we'll go on to Panel 6: Bryan O'Malley,
19 Tania Anderson, and Heidi Siegfried.

20 Just jump right in, Bryan.

21 BRYAN O'MALLEY: Hi. Good afternoon.

22 It's a pleasure to see you-all in person,
23 finally.

24 Bryan O'Malley with the Consumer Directed
25 Personal Assistance Association of New York State, a

1 statewide association working to improve access to
2 and the quality of the state's consumer-directed
3 personal assistance program.

4 I want to thank you for having these
5 hearings. They are an important continuation of the
6 Senate's critical leadership on this issue.

7 And, you know, New York's status as the
8 epicenter of a national home care workforce crisis
9 is well-documented, and the real-world impact of
10 that is readily apparent.

11 The full scope has been detailed by others,
12 and I'll only reinforce one point: That in many
13 counties there is no longer even a pretense that
14 Medicaid recipients have a choice of their home care
15 services.

16 People are referred only to consumer-directed
17 personal assistance, whether they want that or not,
18 whether they're a good fit for that or not, and the
19 home care just is not an option in the traditional
20 personal-care side.

21 We obviously support consumer-directed, but
22 it is not for everyone, and we think people should
23 get the services they want and need.

24 Federal dollars are critical to this
25 conversation, but they're not the only part of the

1 conversation.

2 Unfortunately, we saw that with DOH's recent
3 application to CMS on how it proposes to spend the
4 previously increased federal funds under ARPA.

5 These funds demonstrate that they're not
6 merely aware of this problem, it is likely an
7 intentional barrier that's been put in place to
8 artificially limit the growth of these services.

9 Indeed, the DOH argued that they should be
10 allowed to use \$415 million of this funding to pay
11 for the, quote, natural growth of CDPA and personal
12 care because, and I quote:

13 "While the growth rate of these programs has
14 remained high, structural fractures, such as
15 workforce capacity limitations, have served to limit
16 that growth.

17 "However, by permitting New York to address
18 many of these structural factors, and promote the
19 capacity and accessibility of HCPS, funding under
20 ARPA will work to create natural growth in PCS and
21 CDPAS based on pertinent minimum-needs criteria."

22 In other words, people who are otherwise
23 eligible will actually be able to get the services
24 they're eligible for.

25 These structural barriers were recently made

1 worse by the increase in the fast-food minimum wage
2 outside of New York City.

3 In anticipation of the July 1 increase
4 upstate, CDPAANYS surveyed consumers, and published
5 an issue briefly detailing its impact, as well as
6 the impact of various potential solutions.

7 What we learned was that nearly 90 percent of
8 workers upstate earned less than the fast-food
9 minimum wage, with two out of three earning the
10 standard minimum wage, totaling \$2.50 per hour less.

11 70 percent of consumers cited low wages as
12 the reason that their PAs quit, and almost half of
13 the PAs in the region have warned their consumers
14 that they plan to leave in the near future
15 specifically for higher-paying jobs in fast-food.

16 These low wages are the result of an overall
17 disinvestment in home care that's seen Medicaid
18 reimbursement rates stagnate for over a decade.

19 Fee-for-service reimburses below cost, while
20 managed-care plans operate with little
21 accountability or transparency, and routinely cut
22 rates to unsustainable levels, insisting that
23 agencies pay minimum wage, and failing to pay for
24 basic legal requirements such as overtime or wage
25 parity.

1 Additionally, within CDPAANYS, the
2 "per member per month" reimbursement rate,
3 implemented with no distinction between the inherent
4 cost differences on where in the state an FI is
5 operating, has meant agencies are forced to further
6 cut wages.

7 And to be clear, this was the goal.

8 In fact, the purpose of all of this
9 disinvestment has been to force down wages and
10 create structural factors that limit natural growth,
11 and it has worked exceedingly well.

12 Fixing this requires a bold investment in the
13 entire home care system.

14 Fair Pay for Home Care accomplishes this.

15 Others have detailed the specifics of the
16 legislation, but the establishment of a minimum home
17 care wage of 22.50 per hour is critical.

18 A recent issue brief identified that
19 90 percent of consumers upstate and 80 percent of
20 those in Long Island and Westchester said that an
21 increase in wages would be more effective at helping
22 them recruit and retain PAs than increases in
23 benefits or the provision of transportation or
24 training, other policy ideas currently being
25 discussed.

1 Fair Pay for Home Care is also important
2 because it invests in the entire home care system,
3 for the first time ensuring that the wage increases
4 are fully funded by both DOH and managed-care plans,
5 using data already filed by providers to create a
6 minimum rate of reimbursement based on an average of
7 actual costs in a region.

8 It also funds other expenses incurred by the
9 providers, but I will wrap it up.

10 SENATOR MAY: Okay. Thank you.

11 HEIDI SIEGFRIED: Uh, yeah, hi.

12 Good afternoon.

13 I'm Heidi Siegfried. I'm the health policy
14 director at Center for Independence of the Disabled
15 in New York, and our goal is to ensure full
16 integration, independence, and equal opportunity for
17 all people with disabilities by removing barriers to
18 full participation in the community.

19 And so while our mission is to help people
20 access the care and services they need to live
21 independently in the community, and our Open Doors
22 program specifically gets people out of nursing
23 facilities, we also advocate for elderly and
24 disabled people in nursing homes, assisted-living,
25 and other residential settings to ensure their

1 rights to quality of care, quality of life, and
2 dignity.

3 So because -- you're not going to find many
4 independent living centers that aren't going to
5 advocate for long-term-care, but our main mission is
6 still the home care workforce, though. That's what
7 I'll try to talk about first.

8 Yesterday we marked the 31st anniversary of
9 the signing of the Americans with Disabilities Act,
10 and that's our civil rights statute, that gives us
11 the right to participate and benefit from all
12 aspects of society to the same extent as our
13 non-disabled peers.

14 And, of course, the landmark Supreme Court
15 decision, *Olmstead versus L.C.*, written by
16 Ruth Bader Ginsburg, further requires that that care
17 be delivered in the most integrative setting in the
18 community, which New York has really been struggling
19 to meet its obligations under most integrated
20 settings.

21 People with disabilities need access to a
22 readily available and robust home care workforce in
23 order to exercise these rights.

24 And, unfortunately, we've had to exercise
25 these rights in an environment of increasing

1 austerity, going on for decades, actually, caused by
2 tax cuts for the wealthy.

3 So 10 years ago we began dealing with the
4 global spending cap in the Medicaid program, and,
5 also, dual eligibles that needed long-term care were
6 required to enroll with managed long-term-care
7 companies. And they -- that's really been what has
8 driven sort of the lack of access to home care.

9 I mean, it is also the workforce, but it's
10 also the managed long-term-care companies that are
11 denying adequate hours to care, and that's the care
12 that's needed to avoid institutionalization.

13 So the thing is, though, when you do the
14 appeal, get your right to care, you get the hours
15 authorized, the question becomes, then how do you
16 fill those hours?

17 So it's still a problem; it's a problem that
18 has spread from upstate down to New York City, and
19 it has, you know, real consequences.

20 Now, we've had a couple -- in the past few
21 years, we've had a couple of different stakeholder
22 groups.

23 We had one in New York City, we had one in
24 New York State, plenty of meetings down in Meeting
25 Room 6, and all over the place, and all the

1 stakeholders were there, but they were still
2 operating within that box of austerity.

3 No additional money, you know, and all of the
4 recommendations always had to be sort of around the
5 edges.

6 And that's what we're still seeing for
7 recommendations. Right?

8 So, I mean, we really feel that there has to
9 be this investment.

10 Sydney really did join the Fair Pay for Home
11 Care campaign this year in a big way.

12 And I'm glad that Bryan mentioned about the
13 American Rescue Plan, because we finally -- you
14 know, we've been saying all year in our spring
15 meetings, you know, Watch this, how they plan to
16 spend this billions of dollars coming into New York
17 State.

18 Because we saw, with the Community First
19 Choice option money that we -- disability community
20 fought for that money, that we never were able to
21 find out whether or not that was spent correctly.

22 And New York threw that money down, and, you
23 know, we don't know what happened to it.

24 So Bryan mentioned one of the problems.

25 We've also seen the other problem that we

1 just exploded over, was the giving \$55 million to
2 nursing homes to, supposedly, train workers to
3 recognize clinical improvements, to allow discharge.

4 That is not a criteria for getting out of a
5 nursing home, "clinical improvement."

6 And it just shows that the Department of
7 Health does not really understand this issue.

8 So they did say that, in giving out this
9 money, you know, hundreds of millions of dollars to
10 managed-care companies to do these little
11 around-the-edges things, that they would have some
12 kind of criteria, some kind of quality measurement,
13 for them to be able to access these dollars.

14 And people with disabilities should be
15 included in that quality-measurement piece, so that,
16 you know, they really know what they're doing, and
17 you know, that they're measuring the right things
18 before the money is distributed.

19 So that's -- I mean, I really haven't gotten
20 to the nursing home care, but I will say, you know,
21 we also are concerned about the dumbing-down of the
22 safe staffing bill which we worked on this year.

23 And, you know, we're monitoring what's going
24 to happen with the requirement to pay 70 percent of
25 your dollars on direct care, and -- well,

1 70 percent -- the 70/40 that they're -- we're going
2 to have to monitor that.

3 And the final thing is that, the Public
4 Health and Health Planning Council approves when
5 these nursing homes, nursing facilities, change
6 ownership, merge, close, whatever.

7 And, you know, I go to those meetings.

8 And there are very few consumer reps on that
9 body. It's is mostly industry-dominated.

10 SENATOR MAY: Okay. I need you to wrap up.

11 HEIDI SIEGFRIED: But it should -- I mean,
12 that is a place where we could oversee these nursing
13 facilities.

14 And they are now sending to the
15 long-term-care ombuds program when these nursing
16 facilities file.

17 So it will be interesting to see what happens
18 with that, because that will be an opportunity to,
19 you know, follow it up.

20 SENATOR MAY: Okay. I need to cut you off.

21 Thank you, though.

22 Tania.

23 TANIA ANDERSON: Hello.

24 I got the trick microphone.

25 But, nice to see you. Thank you.

1 Thank you for having these very important
2 hearings.

3 My name is Tania Anderson. I'm the CEO of
4 ARISE. We're the independent living for
5 Central New York.

6 And we, since 1979, have served more than
7 7,000 people annually of any age and any disability.

8 At ARISE we actively work to transition
9 people out of institutional settings, and give them
10 the supports they need to stay in the community.

11 And we save New York State at least
12 \$1.5 million annually.

13 Collectively, our ILC Network saves New York
14 \$125 million each year.

15 Even during the pandemic, ARISE's Open Doors
16 transition center was able to bring 48 people out of
17 nursing homes in 2020.

18 Much of the focus on this hearing has been on
19 the dedicated workers providing assistance with
20 respect to medical needs and activities of daily
21 living. And that crisis is certainly in those
22 areas.

23 I want us to be mindful that the crisis of
24 care also extends to staff who are supporting
25 individuals with developmental disabilities to have

1 access to their community.

2 The work of ARISE really depends on direct
3 support professionals.

4 And let me join in the chorus of voices that
5 are saying that increased pay for this work is
6 absolutely necessary.

7 I want to give you some examples about how
8 this crisis is impacting the programs at ARISE.

9 We're one of the founding providers of the
10 CDPAP program, and we are the fiscal intermediary
11 for about 300 consumers. And when these workers
12 disappear, there's a crisis.

13 For example, we had a consumer in our CDPAP
14 program. He was approved for 80 hours of support.

15 When COVID hit, two of his three staff left
16 because they could make more on unemployment. So he
17 was left with one staff person and 40 hours a week.

18 Couldn't get the care.

19 ARISE tried to find staff, and failed.

20 He went to another fiscal intermediary, tried
21 to find staff, and failed.

22 This man was actually, during the transition,
23 left without any services for a period of nearly a
24 week.

25 He had a health crisis, ended up in the

1 hospital, then transitioned to a nursing home, and
2 that's where he still is.

3 That's one tragedy of many during this
4 crisis.

5 And every -- we currently have 30 people that
6 are approved for hours, and are not receiving any
7 services because we cannot find the staff.

8 We have tried direct hiring, we've tried
9 bonuses, we've tried referral programs.

10 Competitors -- providers are competing
11 against each other for a pool that isn't there.

12 At least twice a month we get referrals from
13 managed-care companies, offering us 30 to
14 40 consumers if we can find the staff, because they
15 cannot find the staff.

16 ARISE also operates the regional resource
17 development center across eight counties, and this
18 program serves 400 people, and has a network of
19 50 providers, [indiscernible] traumatic brain injury
20 and nursing home transition and diversion waivers.

21 This program also is designed to keep people
22 with adequate supports in their community, and this
23 program also is struggling to staff the cases.

24 There are at least two folks in this program
25 that have gone to nursing homes because we couldn't

1 find the staff.

2 Families are filling in the gaps at their own
3 personal expense to their careers and their lives.

4 It's just not sustainable.

5 We've got staff that have been in this
6 program from the beginning, and they say this is
7 clearly the worst it's ever been.

8 And what they're hearing universally is the
9 lack of pay.

10 We have programs that support people
11 one-to-one in the community with developmental
12 disabilities.

13 And we have 120 people who are qualified to
14 receive services, that we cannot find the staff.
15 That's 42 percent of the people that we serve in
16 this program.

17 And these are people that are sitting at home
18 rather than working, or accessing the library, or
19 shopping, or gaining the independent living skills
20 that they need with a little support.

21 And these are not high-cost cases at all.
22 These are people that maybe have as few as one to
23 four hours a week of direct-support professional
24 care.

25 One of those people is actually my daughter

1 who has a developmental disability.

2 And I can tell you firsthand, the struggle in
3 terms of finding direct support professionals to
4 support her; but more importantly, can I tell you
5 about the very critical work that these people do.

6 You've heard very compelling testimony from
7 the workers themselves.

8 They are not in this for the money.

9 They're in this because they care very
10 deeply.

11 This is highly skilled work, and our society
12 is not recognizing it as such.

13 I also want to touch on the impact on ARISE
14 as an employer.

15 450 of our staff are direct-care
16 professionals, and our turnover rate is 30 percent.

17 At a cost of onboarding staff between 4,000
18 and 6,000 a piece, the churn is costing us at least
19 675,000 a year in an industry where there is
20 absolutely no margin.

21 I urge you to continue to consider this issue
22 carefully, as I know you have, and thank you very
23 much for your time.

24 SENATOR MAY: Thank you.

25 Thanks for coming to Albany to share that;

1 and all of you, thank you so much.

2 I don't have any questions.

3 SENATOR RIVERA: I'm good.

4 SENATOR SERINO: Thank you.

5 SENATOR MAY: Thank you so much.

6 Panel 7: Jeanne Chirico, Katelyn Andrews,
7 Kathy Febraio, and Al Cardillo.

8 JEANNE CHIRICO: Thank you for this
9 opportunity, Chair May and Chair Rivera. Thank you,
10 Senator Serino, for being here.

11 My name is Jeanne Chirico, and I'm the CEO
12 and president of the Hospice and Palliative Care
13 Association of New York State, and I understand the
14 crisis of time that we're in.

15 So I'm just going to share a little bit
16 off-the-cuff. I'm not going to read my remarks to
17 you, because prior to accepting the role as
18 president of this hospice association, I spent the
19 last 25 years -- okay, almost 30 in the health-care
20 arena in various leadership positions.

21 So I feel quite confident in my ability to
22 talk to you regarding the needs of the workforce.

23 I ran a licensed agency for 15 years.

24 I was a hospice administrator for 15 years.

25 I also ran part of the certified home health

1 agency.

2 So I understand all the regulations that fall
3 under the Department of Health line of business.

4 And I sincerely love the people that worked
5 with me.

6 When I first started I had 500 aides under my
7 licensed agency. And by the time I was finished in
8 my role there, we were down to just about 200 aides.

9 And I feel like we were very progressive.
10 We're in the Finger Lakes Region. I was a part of
11 the Sage Commission that Melissa spoke of.

12 I met with you, Senator May, when you came to
13 Rochester.

14 We offered health insurance, retirement,
15 tuition assistance. We offered personal days,
16 vacation. We kept up with the minimum wage, and
17 went faster than we were required to within upstate
18 New York. We were at the max, equal to the food
19 workers. We did not want to risk that.

20 And even with all of that, we could not keep
21 up with the workforce demands, and I think this is
22 for a variety of reasons, and I believe you've
23 touched on many of those already today.

24 But I want to talk as somebody who was
25 responsible for running the organization, and I have

1 some very real fears about the fair pay wage act.

2 And I'm -- I believe in it, and I want to see
3 it happen, but I also realize that if I were running
4 the licensed agency right now, I would be scared to
5 death because of the compression factor that would
6 happen for the rest of my employees when you raise
7 that wage, and how would you make up that
8 difference?

9 It would have to come out of your bottom
10 line, and there isn't one right now.

11 As a hospice worker, I'd be scared to death
12 because this is a Medicaid -- kind of
13 Medicaid-supported initiative, where the
14 reimbursement would come out of the programs under
15 Medicaid, where hospice serves 95 percent of its
16 patients under Medicare. But you can't divest the
17 two. You have -- if you're going to get a
18 workforce, it doesn't matter whether it's a Medicaid
19 patient or a Medicare patient, your aides need to
20 receive the same amount of pay.

21 And there is a lack of ability, and there is
22 no reinforcement that's coming, reimbursement that's
23 coming, under Medicare right now.

24 So because of these issues, amongst others,
25 including the -- what's been recently called the

1 "minimum-wage paradox," where increasing the minimum
2 wage, as you stated earlier, may result in the State
3 saving money, because 200 -- excuse me -- about
4 40 percent of the aide workforce is receiving
5 benefits through the state for childcare,
6 food stamps, housing.

7 Those benefits may go away, or be greatly
8 reduced.

9 And in the end, what is the actual benefit to
10 the worker?

11 How much money do they then have to put out
12 for childcare and for other supports?

13 And so what I am suggesting in my proposal is
14 that we do that, plus.

15 That there is some minimum wage efforts that
16 happen, but there's a bigger effort that creates a
17 center, a workforce center, where all of us can come
18 together with these great ideas and be able to work
19 it out so that implementation doesn't devastate, it
20 doesn't harm; it actually helps.

21 Because what if there are recommendations
22 that came out of this center could include things,
23 like, essential workers get a waive on the income
24 limits that are associated with the benefits that
25 they're receiving from the State. Instead of trying

1 to make up the money, add the money to that.

2 So I see an opportunity for all of us,
3 including the interfaith communities; the CBOs (the
4 community-based organizations) that were talked
5 about so eloquently; the associations; the
6 Department of Health; OHIP, who covers the managed
7 long-term-care programs; and these things, all to be
8 a part of this center of excellence for workforce in
9 the community.

10 So I know that I'm at my time limit already,
11 and I appreciate that.

12 I would love to be a part, our association
13 and our members would love to be a part, of a
14 discussion that helps address some of these gaps
15 that are there.

16 SENATOR MAY: Thank you.

17 KATHY FEBRAIO: Hello.

18 Thank you for convening this event.

19 I greatly appreciate the topic being addressed.

20 I am Kathy Febraio. I am the president and
21 CEO of the New York State Association of Health Care
22 Providers, and we represent the spectrum of home
23 care providers across New York State.

24 I would like to say, first and foremost, that
25 our home care agencies are very proud of the work

1 that they've been able to do to keep people safely
2 at home, particularly during this pandemic, with
3 little to no additional support.

4 Some of the stories that were mentioned
5 earlier today were very disturbing and quite
6 egregious.

7 And I want to point out that the vast
8 majority of home care agencies are doing the good
9 work, and that by doing so, are actually in a very
10 difficult financial position as they comply with
11 labor laws, et cetera.

12 But we also have a once-in-a-lifetime
13 generation -- once-in-a-generation opportunity to
14 make significant improvements to the state's home
15 care system with Washington's investment in FMAP of
16 \$1.6 billion in New York State.

17 We would like to recommend flexibility in the
18 use of those funds to meet the unique needs of home
19 care providers and their workers across the state.

20 We recommend that funds be directed, or a
21 direct payment mechanism be set up, to ensure that
22 the maximum amount of funds are made available to
23 workers.

24 Senator May, earlier you mentioned that you
25 have heard that agencies are retaining funds and not

1 getting them to the workers.

2 We see a different story, and we don't see
3 the funds get to the agencies.

4 But some of the examples we would like to see
5 for those home care agencies to use with that
6 flexibility, is to potentially pay workers a bonus
7 for time spent in initial training, paying
8 hazard-pay bonuses to aides, or paying retention
9 bonuses to those that have longevity and made a
10 commitment to the agency.

11 We would also recommend that investments in
12 proven strategies, like ACPs, creating a
13 legacy-of-care mentorship program be allowed for use
14 of these funds.

15 I'm very aware that many of you have made
16 recommendations for DOH to use this additional
17 funding to increase wages for the home care
18 workforce.

19 And we strongly agree that increasing pay for
20 home care workers is of the utmost importance.

21 But I will agree with Jeanne that there are
22 other effects this could have that we have to be
23 aware of.

24 We have to make sure that the employers, the
25 providers, are kept whole, and not expected to dig

1 into their own pockets to pay the other pieces of
2 the wage component that unemployment insurance,
3 FUTA, you know, the list goes on, and unfunded
4 mandates, where we have to provide training,
5 orientation, health assessments, in-services, that
6 are all paid for through this hourly wage that they
7 contract with, with the MLTCs and the managed-care
8 organizations.

9 And the safety net situation Jeanne brought
10 is up critical.

11 We don't want to push people into a position
12 where they are cutting their hours in order to
13 secure their safety net benefits. And that only
14 increases the number of aides that are going to be
15 needed in this system.

16 A little bit about our mentorship pilot
17 program that we would like to see leveraged, is we
18 created a peer-to-peer program, where experienced
19 caregivers were acting as mentors to newly hired
20 individuals for their first 90 days of employment.

21 And for their services in that program, they
22 were paid a weekly stipend, and given additional
23 recognition at the agency as a leader within their
24 agency.

25 So it was a career-ladder step for those

1 individuals.

2 And what we learned through that program was
3 that turnover rates at the agencies with this
4 mentorship program experienced 170 percent lower
5 turnover rate than two dozen agencies without a
6 mentorship program.

7 It really provides a connection to the
8 workforce out in the field back to the agency.

9 It connects them to someone who's been there,
10 who's done that, and who can provide individual
11 support and recommendations, and care for that new
12 hire.

13 And we would really like to see more
14 investment made in these programs. It was funded
15 through one of the WIOs.

16 Those WIOs are now gone, so we are seeking
17 grant funding to continue the support, but we think
18 it deserves more than that, and that we shouldn't
19 have to go out and beg, borrow, for funds on a
20 proven program.

21 So thank you.

22 SENATOR MAY: Thank you.

23 AL CARDILLO: Thank you very much, Senators.

24 Thank you for holding this hearing today, and
25 inviting Home Care Association of New York State

1 testimony.

2 I'm Al Cardillo. I'm the president & CEO of
3 the association.

4 I also want to, you know, really start off by
5 really thanking you for the work that you've been
6 doing the last number of years in support of this
7 field.

8 You've really made this -- this field really
9 has needed a champion, and you're all really working
10 extensively to try to champion these causes.

11 They are very complex causes, and I think
12 from the testimony that you've heard today, it's
13 been really clear, all of the various factors that
14 really go into producing the challenges that exist
15 in our workforce.

16 Now, in my testimony I presented you with
17 some statistics, I presented you with lots of
18 recommendations for how we might go forward.

19 And I would like to just frame that in a
20 couple of ways here in this opportunity here now.

21 What we're hearing from providers across the
22 state, and professionals, is that, you know, there
23 has been a workforce shortage in home care probably
24 since the '80s.

25 I mean, I know I worked on a task force

1 related to home care shortage in 1986 and '87.

2 So it's never really gone away, and one of
3 the reasons is actually a good reason: It's because
4 home care works.

5 Home care has been worked, in a state like
6 New York, into the fabric of the system where it's
7 not just long-term care, although that's a big part
8 of it.

9 Home care provides post-surgical services,
10 preop services, maternal and child health, major
11 medical management, public health services, asthma
12 screening. You know, really across the continuum of
13 need, home care is providing services.

14 It's aides, it's nurses, it's therapists,
15 it's social workers, and case managers, and so on.

16 So it's really a very extensive team.

17 So because the system works so well, and
18 because policies have really been created to try to
19 divert patients from hospitals, and nursing homes,
20 into home care, the demand is burgeoning; and it's a
21 good demand. But there's been really a chronic
22 understaffing of the system. This has gone on and
23 on.

24 In the pandemic it's really reached emergency
25 proportions. And no matter who I talk to in the

1 state, and we've been speaking to providers and
2 groups around the state for the last month, they
3 describe this as an emergency.

4 A provider told me today that he's had one
5 recruit in four months walk into the office to seek
6 training, or to seek potential position.

7 And, again, we know this really cuts across
8 all of the different disciplines.

9 In looking at the situation, our
10 recommendations focus on the need for some immediate
11 help, immediate relief.

12 What kinds of things can we start doing now
13 to make a difference?

14 At the same time, we need to look at, really,
15 a multitiered plan.

16 Something that looks -- clearly, we've heard
17 a lot about funding today, but there's issues of
18 funding. Issues of creating interest in entering
19 this field from the beginning; pipelines from
20 high school, from college, from professional
21 schools, to be interested in coming into the field.

22 Regulations in state programs, which ones are
23 counterproductive to the workforce, and
24 counterproductive to the efficiency of the staff,
25 versus being supportive of that arrangement?

1 What provisions do we have for technology,
2 and the support of technology for workers, for
3 patients, and so on?

4 So, truly, it really cuts across the entire
5 board in terms of a comprehensive plan.

6 I also think -- you know, as you approached
7 the hearing, you've looked at nursing homes,
8 assisted living, home care, other.

9 I think, in the case of some of the
10 responses, it would be really important to determine
11 what kinds of responses are common across those
12 fields that the legislature and government could
13 support, so that we have more of a unified kind of a
14 program to assist wherever that patient is, if
15 they're in a nursing home or home, because what we
16 don't want to do is maybe pay them more in one
17 setting, so now they can't get into the other
18 setting because you don't have competitive salaries.

19 So I think it's important to look across
20 that; look at the training, look at the educational
21 requirements, and then also look at the very unique
22 aspects that relate to home care, assisted living,
23 adult homes, nursing homes.

24 And I think from that, I think a very good
25 package of ideas and proposals, you know, can

1 emanate.

2 Some of the things that could be done right
3 now, Senator Rivera, you have legislation that would
4 provide support for home health agencies that have
5 not had a base-year increase in five years, and are
6 trend factor increase in over ten. And Jeanne spoke
7 to that issue.

8 There's also the situation where, you know,
9 in the case of your legislation, you know,
10 Senator May, that is really looking at, how do you
11 increase the target amounts that we should be
12 providing to workers so that they're working for a
13 wage that really reflects the value of the care and
14 the meaning of the care that they provide?

15 Senator Serino, you've sponsored legislation
16 that creates a multistate agency task force to look
17 at the marketplace, and try to decide, well, what
18 should the wage be set at to really help it make a
19 difference? And how do we promote interest in this
20 field across the state?

21 These are things that are very, very much
22 within our grasp now.

23 I want to mention one other thing. It seems
24 a little off-topic, but it's not, and just this one
25 last piece.

1 You've heard a lot in the budget process
2 about the request for offers (the RFO) for licensed
3 agencies and fiscal intermediaries.

4 That RFO has not been released yet.

5 That is going to create a calamity in the
6 system if -- if -- once that starts being
7 implemented, and licensed agencies start actually
8 being cut out of the Medicaid program.

9 We would ask you -- we asked if you would
10 repeal the RFO, but at least table that, and let
11 there really be a -- I think a more rational look at
12 how to regulate the agency supplying the state, so
13 we don't undo the workforce and don't undo the
14 patients.

15 As the same with the FI.

16 I will conclude.

17 SENATOR MAY: Thank you.

18 And I will just respond about the wage
19 compression, that -- I can't remember, I think it's
20 in the Investing and Care Act, that we really
21 thought about that issue, and how do you bring up
22 those at the bottom without disadvantaging the
23 next-level workers, and that sort of thing?

24 So it's on our radar, for sure. But
25 I appreciate you bringing that up.

1 JEANNE CHIRICO: Thank you.

2 Just --

3 SENATOR MAY: Senator Serino, go ahead.

4 JEANNE CHIRICO: -- well, I just wanted to
5 add the disappointment in the Department of Health
6 proposal, from the recent determination of how
7 they're going to use the home and community-based
8 services money, that hospice was not even mentioned
9 within that. And home care got a little wink and a
10 nod of opportunity to apply for a grant under
11 transportation.

12 I understand that doesn't diminish the needs
13 in all the other areas that were in there, but I'm
14 just bringing it up as, a lot of work left to be
15 done on the other side.

16 SENATOR MAY: Thank you.

17 Go ahead.

18 SENATOR SERINO: And thank you so much,
19 Jeanne and Kathy and Al.

20 Al, you're always the hero here, with
21 everything that you bring up.

22 And, Jeanne, what you said like with hospice,
23 how we've had -- you know, you had 500 people at
24 first, and now you have 200.

25 And I think that everyone here agrees that

1 the wages and benefits must increase to attract and
2 keep the workers.

3 But like you said, we need to ensure that, in
4 trying to help one group, we're really not
5 inadvertently hurting the New Yorkers who utilize
6 these services, our seniors, our most vulnerable.

7 And I really appreciate you reminding
8 everyone of the need to proceed expeditiously, but
9 in a way that we don't have inadvertent
10 consequences.

11 And I love what you said, too, Jeanne, about
12 the center for excellence for workforce.

13 You know, you guys, you guys, all have skin
14 in the game. And, really, to get something done,
15 I think we really need to have a unified front and
16 hear from everybody.

17 You know, like we heard some stuff today, but
18 to have these conversations, and really delve down
19 into it to see what we can do.

20 JEANNE CHIRICO: And I think it is unfair to
21 ask the legislature to understand all the nuances
22 of -- and the implications that are in this
23 workforce.

24 And to have you be a part of conversations,
25 larger, with all the other stakeholders would be

1 amazing.

2 SENATOR SERINO: It would great.

3 Thank you very much. Appreciate everything
4 that you do.

5 SENATOR MAY: Thank you, all.

6 All right, we're up to Panel 8: Dana Arnone,
7 Honorable Christine Pellegrino, Faigie Horowitz, and
8 Jim Hurley.

9 Start with Dana.

10 DANA ARNONE, RN: Sure.

11 Thank you very much for the opportunity to
12 sit before you and have this conversation, and it's
13 been very, very long overdue.

14 My name is Dana Arnone. I am a former home
15 health aide who put herself through
16 Suffolk Community College. I am a registered nurse
17 for more than 30 years. I am the proud owner of
18 Reliance Home Senior Services, which is a small
19 LHCSA, with about 300 home health-care employees,
20 and we are proud members of 1199 union.

21 And I'm very happy Rona's here, and she's on
22 my side. So...

23 My history as a former nurse's aid gives me a
24 unique perspective and understanding, as well as a
25 great empathy for both the patients and the

1 employees.

2 I have devoted my entire career, and my life,
3 to home health care and its total reform.

4 I am here in solidarity with the caring
5 majority, and stand by my employees, in support of
6 fair pay for home health caregivers.

7 It is beyond frustrating that we are sitting
8 here debating the concept of human infrastructure.

9 It's unbelievable to me, every time I hear
10 that bus drivers may receive 23 to 26 dollars an
11 hour, the fast-food workers receiving \$15 an hour,
12 and we have to beg for our aides and our workers who
13 care for human lives to make at least a living wage.

14 The pandemic has brought to light many issues
15 that have been swept under the rug for years, the
16 most important being that there's just not enough
17 caregivers for the number of homebound patients.

18 The need is growing exponentially, and it is
19 only going to get worse unless extreme action is
20 taken.

21 It really is the perfect storm.

22 A recent statewide survey of home health-care
23 agencies found about 23 positions were left unfilled
24 due to staff shortages and, as a result, agencies
25 have been unable to accept nearly 30 percent of new

1 cases.

2 How are we, the agencies, supposed to
3 survive?

4 And I just want to add, as I'm sitting,
5 listening to the testimony, my office -- I'm having
6 a conversation with the director of my office, and
7 from today, until this weekend, we are down
8 50 workers that we have to staff the cases.

9 And we don't have them.

10 So what's going to end up happening is, we're
11 going to end up calling our families that we care
12 for, that they're going to have step in, and either
13 take care of their patient -- or, their loved ones,
14 or go to work, or abandon them.

15 So we have this constant -- we sit down and
16 talk to them every week, and we're begging them to
17 stay with us and ride through storm together.

18 Once they hear that we can't staff their
19 cases, a lot of families think that they're going to
20 have more opportunity for workers on other agencies,
21 and then they find out that it's the same situation
22 across the board.

23 So that's just, as I'm texting back and
24 forth, I'm listening to them, they're, like,
25 panicking in the office. We sometimes stay there

1 until 8:00 or 9:00 at night, trying to staff these
2 cases for our families, and it's impossible.

3 So -- let me just go back.

4 So with the decrease of the employees, that
5 we still have to care for our patients.

6 Overtime in my office is up about 20 percent.
7 It is unsustainable.

8 So you're going to find more and more
9 agencies, especially small LHCSAs like myself,
10 they're going to be closing.

11 The governor constantly references that we
12 are New York [indiscernible] -- "New York Tough,"
13 but we really should be "New York Cares."

14 I find it completely unacceptable that across
15 New York State -- I'm going to cry -- the elderly,
16 disabled, and homebound are going without water,
17 food, medication; they're not being dressed, bathed,
18 and they lack basic human contact.

19 People wonder why we have such a high
20 hospitalization and re-hospitalization rate among
21 this population.

22 They are not being cared for.

23 I can attest that my agency is doing
24 everything that we can to retain and attract home
25 health aides.

1 Reliance, my company, provided an extra \$2 an
2 hour to each aide as soon as we were granted the
3 PPP funds.

4 We participated in the 1199 union successful
5 transportation pilot program, which they're still --
6 my aides are talking about.

7 We Uber aides to hard-to-staff outlying
8 locations just to provide safe, consistent care to
9 our families.

10 We provide scholarships to PCA school for
11 those interested but are unable to afford the
12 certification.

13 I myself have gone so far as to start a
14 not-for-profit called All Things Home Care so that
15 we can help other small agencies like myself, and
16 that are experiencing the same issues.

17 We celebrated our home care workers every day
18 when they were mostly forgotten and abandoned by the
19 media.

20 Home health caregivers are essential to the
21 most fragile, the elderly and the disabled.

22 The homebound deserve to be in their home and
23 deserve consistent care.

24 We need to acknowledge that people matter,
25 the patient as well as the caregiver.

1 There is no one more essential than that
2 worker who is caring for you in your home.

3 Consistent -- oh, I'm sorry.

4 We believe that there needs to be fair pay
5 for differentials on Sundays and holidays because
6 these are the most nearly impossible times to staff,
7 and the burden falls upon the agency.

8 We believe that nursing students should be
9 rotated through home care.

10 As -- we at Reliance took it upon ourselves,
11 we have developed a syllabus. We presented it to
12 Farmingdale State College. And we are ecstatic to
13 say that nursing students will be starting their
14 clinical rotation through Reliance Home Care this
15 fall.

16 In addition, we feel that it is valuable
17 to --

18 SENATOR MAY: I have to ask you to wrap up,
19 Dana.

20 DANA ARNONE, RN: What? Wrap it up?

21 Okay.

22 In addition, we feel that it's valuable
23 that --

24 This is actually really important, it's just
25 my last point.

1 -- that we -- there is an opportunity in
2 nursing students, when they're going through the
3 first year of nursing school, they are completing
4 fundamentals of nursing, which is, basically, the
5 core curriculum for the PCA home health aide
6 certificate.

7 If we can just tap into those nursing
8 students, we could have an immediate workforce, we
9 can have a valued workforce, and we can start
10 [indiscernible] nursing students to be given their
11 opportunities with in-home care, and really starting
12 to change the perspective that they have.

13 Thank you.

14 SENATOR MAY: Thank you.

15 Christine.

16 HON. CHRISTINE PELLEGRINO: Is it on?

17 SENATOR RIVERA: One more time.

18 SENATOR MAY: Just touch it very lightly.

19 SENATOR RIVERA: One thing you can do is to
20 start -- start talking as you start to --

21 HON. CHRISTINE PELLEGRINO: There it is.

22 SENATOR RIVERA: There you go.

23 HON. CHRISTINE PELLEGRINO: I'm on.

24 Senators, thank you so much for being here
25 for the long haul. We understand it's been an

1 extraordinarily long day, and, hopefully, very
2 productive.

3 We're grateful to you for working together to
4 hear about this topic, and for giving me the
5 opportunity to provide testimony.

6 My name is Christine Pellegrino. I'm a
7 former member of the New York State Assembly, a mom,
8 and a daughter to aging parents.

9 I'm currently the board president of
10 All Things Home Care, a not-for-profit dedicated to
11 improving the lives of the elderly, the infirmed,
12 and the disabled.

13 All Things Home Care seeks to work
14 collaboratively and creatively to support and
15 elevate the role of home care workers, to improve
16 their quality of life, and ultimately make a
17 difference in affecting patient outcomes.

18 We believe that everyone should be able to
19 receive the care that they deserve, to live a life
20 of dignity, which makes the shortage of home care
21 crisis -- home care workers a real crisis for
22 parents, patients, their families, and, ultimately,
23 for us all.

24 The shortage of caregivers creates a
25 cascading effect on families and communities,

1 detracting from the overall productive --
2 productivity of the local workforce.

3 When cases can't be regularly staffed or
4 caregivers unexpectedly miss their assignments,
5 care, as we've heard often today, for the patient
6 falls to a loved one who must choose between their
7 family member and their job.

8 We cannot ignore the pending workforce
9 shortage any longer as the crisis is already upon
10 us.

11 Unstaffed cases and missed visits are a
12 direct result of some of the various issues home
13 care workers face, and I would like to talk about
14 that a little bit; namely, home care workers face
15 significant barriers that limit their participation
16 in the workforce.

17 It's often said that it is expensive to be
18 poor.

19 Often, home care workers rely on public
20 transportation.

21 Now, if you've ever been to, or been forced
22 to, commute by public transportation anywhere in the
23 suburbs of New York, particularly on Long Island,
24 you know how woefully insufficient our suburban
25 public transit system is.

1 Furthermore, roughly 25 percent of
2 Long Island patients live in areas that are deemed
3 "hard to staff" because they are not accessible to
4 public transportation, thus resulting in a situation
5 where the patients who need essential care in their
6 home have great difficulty receiving it.

7 And so the intersection of a subpar public
8 transit system and low wages means that workers must
9 choose between spending their personal time on a
10 labor-intensive, hours-long, exhausting commute; the
11 unaffordable cost of ride share options; or simply
12 not working at all.

13 The reality is, that suburban home care
14 workers may be forced to accept fewer assignments
15 than they could because of their low pay, thus
16 magnifying this crisis.

17 Our organization, All Things Home Care, has
18 launched a private transportation initiative for
19 caregivers who need a ride to work, because it gives
20 the caregiver the ability and the incentive to
21 accept work, and, importantly, they are able to keep
22 more of that money in their pocket.

23 Therefore, All Things Home Care is calling
24 for the historic investment in initiatives that
25 offer a broad range of support systems for essential

1 workers.

2 We also, as many have, support Fair Pay for
3 Home Care legislation because we believe that those
4 who provide essential care should not be relegated
5 to a lifetime of poverty.

6 We support Senator May's Home Care Jobs
7 Innovation Fund, and support appropriation of the
8 \$15 million immediately from the federal Cares Act
9 funding for initiatives like our home care worker
10 transportation initiative, as well as funding for
11 childcare, broadband, cellular service, and other
12 workforce-related expenses.

13 This innovation fund will create jobs in the
14 human-service sector, such as drivers and childcare
15 providers, and we encourage the unionization of
16 those workers as well.

17 Finally, in order to support home care
18 agencies, often locally-owned small businesses who
19 are themselves significant job creators, we call for
20 an industry-wide pay-rate standardization, and a
21 raise to the reimbursement rate to include the
22 overtime pay and holiday pay for caregivers.

23 Agencies, as we've heard today, operate on
24 very small profit margins, and need to be
25 compensated in a way that allows them, too, not just

1 to operate, but to thrive.

2 Thank you.

3 SENATOR MAY: Thank you.

4 FAIGIE HOROWITZ: Okay. I think you hear me.

5 I'm Faigie Horowitz. I'm with

6 Caring Professionals. We are a New York City-based

7 LHCSA, a home care agency.

8 But I'm going to talk about all the

9 stakeholders in this conversation, and, at the end,

10 there's going to be somebody who has not really been
11 mentioned.

12 The first set of stakeholders is, obviously,
13 the Medicaid patients, the consumers, and their
14 families.

15 They need HHAs, PCAs, and personal
16 assistants who will show up, and do show up, and
17 provide quality continuum of care.

18 The silver tsunami of baby boomers is upon
19 us, and the actuarial numbers are really no secret.

20 The second set of stakeholders is obviously
21 the caregivers. Few are performing this dead-end
22 job -- it's not insulting, but it is factual -- at
23 low rates of pay.

24 And wage improvement is a critical need.

25 And we also need career pathways.

1 And I think what you just mentioned about
2 bringing in the nurses, the nursing students is so
3 true.

4 I went into a nursing school, because I was a
5 board member, a couple of years ago, two or
6 three semesters, nobody knew what I was talking
7 about, even the dean. And they weren't really
8 interested.

9 But education and teamsmanship will make
10 it -- across the health-care sectors will make a
11 difference.

12 I come out of the workforce world. That was
13 my start in nonprofits.

14 There are many creative pathways and creative
15 models that do exist to bring people up.

16 But I want to touch on something that hasn't
17 been mentioned.

18 We are in the midst of a large labor shift
19 intensified by corona.

20 And last week's "New York Times" reported
21 that wages and opportunities for some low-wage
22 workers, such as those in the restaurant industry,
23 and those in online retail, are rising since the
24 pandemic.

25 Obviously, people want to go out to eat now,

1 and have bought a lot online.

2 Wait staff can move up to managers at
3 restaurants, for example.

4 And they do mention home health care.

5 But, in our system, and in our industry,
6 workers cannot move up without more training and
7 additional credentials.

8 The third set of stakeholders are the LHCSAs,
9 such -- and the FIs; the providers.

10 We cannot give the workers the wages they
11 deserve with our shrinking margins.

12 There are now increased regulations and
13 safety precautions for which we were not reimbursed,
14 and there are administrative costs to the work that
15 we do.

16 We are not capitalists soaking up government
17 money and exploiting workers.

18 Years back, we had a 2 to 3 percent profit
19 margin.

20 That is long gone.

21 The margins are now minuscule.

22 And, we are a union shop, we pay the top
23 dollars. We have not had 24-hour shifts in years.

24 And -- there's one more thing I wanted to
25 mention here, but, I forgot it.

1 Historically, even when money did come down
2 from the State, for minimum-wage increases on the
3 LHCSA side, and wage parity on the CDPAP side, no
4 measures were put in to ensure that the personnel
5 rates, you know, the unemployment, the workers'
6 comp, the payroll taxes, et cetera, and general
7 administrative costs, were included in the rates
8 paid to us providers.

9 The managed-care plans decide which providers
10 get increases, and how much.

11 Providers are depleted, forced to manage more
12 things on less dollars.

13 Obviously, New York State is the fourth
14 stakeholder group.

15 New York State, and I remember this, was once
16 a trailblazer in allowing moderate-income seniors
17 and people with disabilities to access Medicaid.

18 Does New York State still care about this
19 sector?

20 There is now a look-back period of
21 2 1/2 years, and there are other barriers to
22 long-term-care services.

23 And now we come to the fifth group of
24 stakeholders: the managed care organizations which
25 operate without transparency.

1 They're paid with Medicaid dollars, and have
2 a very big stake in the existing system.

3 Managed-care organizations normally work on
4 a capitation basis; it's a simple equation. But
5 capitation does not work for long-term care.

6 You can't make money by investing in the
7 health of people who require long-term care.

8 Their care needs increase, and there are no
9 savings to be had.

10 It doesn't work.

11 But, the managed-care organizations get the
12 increases for home care without accountability for
13 contracts and the rates paid to providers.

14 Take a look at the plan submitted to CMS last
15 week for how to manage the additional FMAP money
16 coming down.

17 The managed-care organizations are going to
18 be devising the accountability measures for the
19 money they receive.

20 This is accountability?

21 Why are they stakeholders in the welfare of
22 poor people with disabilities, and seniors, in
23 New York State?

24 One final point:

25 There are two main differences between these

1 two populations right now.

2 And I know -- wait.

3 I wanted to talk about the workforce.

4 The workforce issues in home care are similar
5 to those in the OPWDD world.

6 And I know, because I'm a 25-year veteran
7 board member of a medium-sized OPWDD agency in
8 Brooklyn.

9 There are two main differences:

10 Number one, just this final point which no
11 one mentioned: No new barriers have been erected
12 recently to bar eligible people from services in the
13 world of developmental disabilities.

14 Two: There are no managed-care organizations
15 in the LDD universe.

16 I rest my case at five minutes, exactly.

17 You know you what need to do, you are our
18 champions.

19 Keep on fighting for us.

20 SENATOR MAY: Thank you.

21 And, finally, Jim.

22 JIM HURLEY: Hi.

23 I just want to echo the "thank you" to those
24 that hung in there until the end with us.

25 I think it's very important that we do this.

1 My name is Jim Hurley, and I own Home
2 Instead, which is a licensed home care agency here
3 in the Capital District. We employ about
4 300 caregivers.

5 I'm the chair of the New York Chapter of the
6 Home Care Association of America, and I'm a member
7 of the New York State Health Care Providers, and a
8 board member of the Capital Region Workforce
9 Development Board.

10 And I've chopped a whole bunch out of here.

11 There are a number of reports that I used to
12 put this together.

13 And I'll get you those reports by the end of
14 the week.

15 In those reports, there are recommendations
16 and strategies that everyone seemed to agree on:

17 The strategies to improve recruitment of new
18 caregivers reduced turnover, and ensured that a
19 stable, high-quality workforce will be available to
20 care for older adults with long-term service and
21 support needs.

22 And I'm go going to touch on just two of
23 those strategies.

24 One is, a public campaign which could help
25 expand the pipeline of potential caregivers by

1 recruiting non-traditional workers to the
2 long-term-services field.

3 These workers could include students,
4 displaced workers, and older adults who want or need
5 to work past the age of retirement.

6 We have a good percentage of our workers and
7 our staff who are in their 60s, 70s, or even
8 80s, and find meaningful work, and remain
9 productive members of society, although sometimes
10 there are strict restrictions on what they're able
11 to earn.

12 We have to stop encouraging or incentivizing
13 people not to work.

14 And then, home care, health-care integration.

15 We need to explore reasonable and sensible
16 expansion of the scope of services that LHCSAs
17 (licensed home care service agencies), and
18 particularly aides, are permitted to provide.

19 Well-trained aides, under the supervision of
20 an RN, should be able to do more in the home.

21 The -- if we come up with -- a home aide can
22 provide care in a home, a certified nurse's aide can
23 provide care in a facility, but those two very
24 similar positions can't work in the other's area.

25 Why?

1 Why not establish a more universal worker to
2 become a direct-care professional in nursing homes,
3 assisted-living communities, and home- and
4 community-based settings?

5 We just need to identify a common set of
6 competencies that this universal aide, regardless of
7 setting, could master and demonstrate.

8 This role should be able to carry their
9 credentials across state boundaries also.

10 And that is it.

11 SENATOR MAY: Wow. Well done. Coming in
12 below time.

13 Any questions from anybody?

14 I just want to say thank you for the really
15 important work you're doing, and the good ideas.

16 I'm going to -- did you submit your testimony
17 in writing?

18 I think I've got it here.

19 But, I'm looking forward to seeing some of
20 these really good suggestions that you have.

21 And investments in things like transportation
22 are critical.

23 And the nurses, you know, bringing --
24 rotating the students into, you know, home care
25 seems like a brilliant idea, too.

1 So thanks so much for bringing all of this
2 forward.

3 OFF-CAMERA SPEAKER: Okay. Thank you.

4 SENATOR MAY: Thank you for your work.

5 And, the last panel. All right.

6 MATTHEW HETTERICH: Not least.

7 SENATOR MAY: Not least.

8 So we have Christy Johnson -- Johnston,
9 Matt Hetterich, and Veronica Charles.

10 And you guys should win a prize for being
11 here until the bitter end.

12 OFF-CAMERA SPEAKER: Thank you for being here
13 to the bitter end.

14 [Laughter.]

15 SENATOR MAY: Well, and thanks to everyone
16 who stayed, actually.

17 So, Christy, do you want to kick it off?

18 CHRISTY JOHNSTON: Yes.

19 And the mic is on, so that works well.

20 So, good afternoon, almost evening.

21 And, I just want to thank you for convening a
22 hearing dedicated to such an important and
23 challenging topic, and for your patience in sitting
24 through all of the conversation today.

25 My name is Christy Johnston, and I work for

1 Premier Home Health Care Services.

2 And my remarks today, which have been cut
3 down and edited --

4 SENATOR RIVERA: Excuse me one second.

5 Folks, if you could take the speaking
6 outside, please, because we can hear it down here.

7 Thank you so much.

8 Thank you.

9 Please continue.

10 CHRISTY JOHNSTON: And my remarks today
11 reflect those of a number of additional LHCSAs that
12 share similar characteristics.

13 Together, our organizations care for tens of
14 thousands Medicaid beneficiaries in the
15 five boroughs and surrounding counties, and we
16 employ tens of thousands of home health aides who
17 are members of 1199 SEIU.

18 Our organizations invest in training,
19 technology, and career growth for our essential home
20 health workforce, to ensure our patients receive the
21 highest-quality care, and we endeavor to collaborate
22 regularly with our union partners on issues and
23 initiatives that impact our workforce.

24 It's been a long day, and prior speakers and
25 your questions have covered many of the critical

1 issues. So I will just hit a few points important
2 to reinforce at the end of the day.

3 We are at a critical juncture.

4 We have a crisis going on in home care right
5 now, but we also have unprecedented funding
6 opportunities for home care.

7 And you-all, your colleagues and the
8 executive, ultimately must decide how much of an
9 investment the State will make to address the home
10 care workforce challenges, and how accessible the
11 state wants to make home care services to its
12 citizens.

13 New York has always been supportive of home
14 care sooner and at greater levels than other states,
15 but has not consistently continued to invest in home
16 care.

17 So a couple of the issues.

18 Workforce.

19 There is a growing workforce home care
20 shortage crisis, but it existed before the pandemic.

21 It's even greater now, and has spread
22 throughout the state.

23 New York City, which was not touched as much
24 by shortages in prior years, I can say, is now in a
25 full-fledged staffing crisis.

1 And as we emerge from the pandemic, thousands
2 of home care workers have left the market, and many
3 have still not returned.

4 And I think one piece relative to the issues
5 with that, is the lack of staff drives an incredible
6 overtime expense, to make sure continuity of care
7 exists, patients are cared for, and as we kind of
8 move things -- move people around.

9 During the pandemic it was critical because
10 we wanted to ensure the care was there and people
11 were able to remain at home.

12 Now that we're moving out of the pandemic,
13 it's because we don't have workers.

14 Infrastructure.

15 The state's home care infrastructure
16 increasingly is unstable.

17 It's a system designed to keep individuals
18 out of congregate care settings, but it's been
19 neglected and is fraying as a result of decades of
20 Medicaid cuts with simultaneously increasing wage
21 and related costs.

22 It will come as no surprise that it's been
23 exacerbated after the pandemic.

24 This sector of the health-care system
25 received no additional funding support to deal with

1 any of the pandemic-related issues.

2 And I will say, we work in multiple states.

3 Other states did invest. They provided
4 access to grant funding. They increased wages --
5 rates for increases to wages.

6 New York didn't do that, so it's an
7 additional struggle on top of the other challenges.

8 Without question, home care workers are the
9 backbone of this health-care sector. They are the
10 eyes, ears, and hands in the home, and they
11 contribute significantly to controlling health-care
12 costs and improving quality of patients' lives.

13 To that end, we are grateful to you and your
14 colleagues in the legislature for leadership in
15 proposing solutions to address these critical issues
16 and working collaboratively.

17 Our group has been supportive of increasing
18 wages and other important -- other approaches to
19 increase the amount of pay home care workers can
20 take home, through bonuses, recruitment incentives,
21 and fair reimbursement to home care providers.

22 We believe that the best way to accomplish
23 this is by development of regional-based rates
24 similar to the Fair Pay for Home Care bill approach.

25 And I want to emphasize that minimum hourly

1 regional reimbursement rates, it is about wages, it
2 is about benefits.

3 But the cost of delivering an hour of care is
4 more than just that wage and benefit.

5 It's payroll taxes, insurance, paid time off,
6 training time, travel time, overtime, spread of
7 hours, holiday pay.

8 It costs us a million dollars-plus a year to
9 pay time and a half and double time for holiday pay.

10 That's not reimbursed by MLTCs or the
11 Medicaid program, and those are wages that workers
12 deserve.

13 And that's not even managing the regulatory
14 requirements.

15 That funding is critical to our work as well,
16 and it helps target things to our workforce.

17 There are a myriad of other approaches to
18 improving aspects of the home care workforce
19 recruitment and retention challenges: training
20 flexibility, social determinant health support for
21 workers, enhanced training career and ladders, among
22 other things.

23 I'd love to talk about that endlessly because
24 that's what we want to be focusing on. But it's
25 really about, ultimately, investing in wages and

1 benefits for this workforce.

2 Fortunately, there's funding, opportunity at
3 the federal level, and we look forward to working
4 with you to help secure that for New York.

5 SENATOR MAY: Great. Thank you.

6 Matt.

7 MATTHEW HETTERICH: Good afternoon, Senators.

8 Thank you for waiting for all of us today,
9 and especially for some of us that came up from
10 Long Island; so it's a 4-plus hour ride.

11 So when the meeting cuts off at 5:00, you
12 worry that you made the trip.

13 So I appreciate everybody's time today, and
14 getting to work with you.

15 My name is Matthew Hetterich. I serve as the
16 administrator of Gurwin Certified Home Health
17 Agency, part of the Gurwin Health Care System based
18 out of Commack, Long Island.

19 In addition to operating both a LHCSA and a
20 CHHA, we serve as a 460-bed nursing and rehab center
21 that provides long-term care, ventilator care,
22 on-site dialysis, medical and social model daycare.
23 We have an assisted-living facility that's across
24 the street. We do memory care.

25 We do the entire care continuum.

1 And soon, after the Independent Building is
2 finished, we will be one of the few CCRCs on
3 Long Island, and offering diverse care options for
4 people out on the eastern portion of Suffolk County.

5 So I wanted to come and speak today on behalf
6 of not just the home care agency, but on the whole
7 care continuum, and seeing what we are experiencing
8 right now with what is truly a workforce shortage of
9 not enough nurses, not enough aides, not enough
10 therapists, not enough CNAs.

11 It's been very dire straits, between COVID,
12 between other employment opportunities out there.

13 So, you know, we're looking forward to
14 working with you in the future on what we can do.

15 There's been a lot of discussion today.
16 Obviously, a lot of the core issues have already
17 been addressed.

18 There are a couple of things that I would
19 like to suggest in terms of efficiencies that are
20 relatively cost-neutral.

21 So, for example, home health aides are
22 required to maintain a certain number of in-service
23 hours every year. They have to do at least
24 12 hours.

25 The agency is responsible for monitoring

1 those in-service hours.

2 So if an aide works for Maxim Healthcare, and
3 then also works for Senator May Home Care, she's
4 required to take those same in-service hours for
5 both agencies.

6 There should be some sort of efficiency
7 created within the health commerce system, or
8 somewhere along the way, where those hours can be
9 recorded on an agency basis, and then prorated,
10 which will also allow for those caregivers to spend
11 more time in the field versus time in the office
12 maintaining those sorts of criteria that are
13 required.

14 In addition to that, there are training
15 programs that are certified by the Department of
16 Health. There are training programs that are
17 certified by the Department of Education.

18 There should be some look into creating
19 either a universal worker program, or how can we
20 allow these trained caregivers to work across
21 different settings?

22 Whether it's a CNA in the nursing home, a
23 home health aide that's in the home, a resident care
24 assistant that's at the assisted living, a direct
25 support professional; whatever it may be called,

1 there may be some opportunities in looking at
2 aligning these caregivers, and the training and
3 experience they have, in order to be able to serve
4 as multiple populations; not just for one provider,
5 like Gurwin, but for multiple providers out there,
6 and to allow them different opportunities there.

7 In addition to that, one thing I did want to
8 mention that has been a positive also, is Gurwin had
9 created a position called the "resident care
10 assistant," which was an extra set of hands that we
11 utilized in the nursing home in COVID. This was
12 untrained staff that would be able to at least
13 triage call bells, help with food deliveries, things
14 of that nature; non-clinical hands-on -- or,
15 non-clinical tasks, to allow our other caregivers to
16 provide that care.

17 We'd be hopeful in looking at the staffing
18 ratios that something like that would be allowed to
19 be included in that hourly fix, or that hourly range
20 of care, that's going to be required come January.

21 There's been a lot of horror stories today,
22 but one of the things that I did want to mention is,
23 you know, Gurwin is a CMS-rated five-star facility.

24 We spare no expense when it comes to employee
25 benefits. We offer wages that are above and beyond

1 any of our competitors that are out there.

2 In addition to that, we already meet all of
3 the staffing requirements that are going to be
4 required of us.

5 We are a quality provider that believes in
6 putting the patient at the center of our care, and
7 then everything else will fall into place.

8 When we get calls from for-profit providers
9 that are inquiring as to what we're doing
10 differently, and how we're operating in this
11 environment, that's somebody that should be included
12 at your table in terms of these discussions and
13 moving forward.

14 So, with that, all I wanted to say is:

15 Before the pandemic, people had already
16 preferred to age and receive care in place in
17 familiar surroundings whenever possible.

18 This has only grown truer in the
19 post-pandemic world, as many people look to bypass
20 facility-based care completely, and new federal
21 programs, such as SNF-at-Home, Hospital-at-Home,
22 continue to showcase the ability of home- and
23 community-based services to deliver higher levels of
24 care in a safe and efficient manner.

25 With the lessons we've learned regarding

1 infection control and capacity of the overall
2 health-care system, an investment into home- and
3 community-based services is money well spent, as it
4 has been repeatedly demonstrated to be a
5 cost-effective, patient-care solution at a variety
6 of levels that's not limited by walls or the number
7 of beds.

8 Thank you.

9 SENATOR MAY: Thank you.

10 And, last, but definitely not least,
11 Veronica.

12 VERONICA CHARLES: Thank you so much,
13 Chairwoman May, Chairman Rivera, and Senator Serino,
14 for sticking it out until the end.

15 And I greatly appreciate everyone's
16 thoughtful testimony today, as well as your
17 thoughtful comments and considerations.

18 So I do want to keep my testimony brief.

19 I will be speaking primarily towards
20 private-duty nursing, which is a specific type of
21 nursing services that Maxim provides, that really
22 focuses on pediatric patients, which are sometimes
23 left out of this equation.

24 So my name is Veronica Charles. I am the
25 director of government affairs at Maxim Healthcare

1 Services.

2 We're a national provider of home health-care
3 services, but we do have seven offices in the
4 state of New York. We care for a little over
5 1700 individuals throughout the state.

6 That's, again, primarily offering
7 private-duty nursing services as a LHCSA, a
8 certified home health agency. But we also are a
9 fiscal intermediary in the consumer-directed
10 personal-care program.

11 Maxim has been a longstanding advocate for
12 the New York home care workforce, and we appreciate
13 everything we've discussed today. And I agree with
14 so much of what my colleagues have had to say.

15 Private-duty nursing is a continuous skilled
16 nursing care provided in the home for medically
17 complex and vulnerable pediatric patients, as well
18 as older adults or individuals that may have had a
19 traumatic brain injury, require a tracheostomy,
20 ventilator care. But these are really individuals
21 that suffer from a disability, that they require a
22 nurse around the clock to stay alive.

23 So, unfortunately, many New York children,
24 older adults, with these special needs are not
25 receiving enough nursing services in the home, or

1 able to access these life-saving services, for the
2 reasons you've heard today, primarily stemming from
3 low Medicaid reimbursement rates from Medicaid, as
4 well as the managed-care organizations, which
5 hinders comprehensive recruitment and retention
6 strategies. And that has definitely been true
7 throughout the COVID-19 public health emergency.

8 The pandemic has made the delivery of our
9 specific PDN services more difficult for nurses and
10 costly for agencies, as neither our agencies nor our
11 clinicians have received enough financial support
12 from the State or the federal government associated
13 with COVID that nurses in other industries have
14 received.

15 Offering additional funding to support PDN
16 wages will assist home care providers in improving
17 quality while also containing health-care costs.

18 As we've heard today, it's incredibly costly
19 to keep individuals in the hospital, and it's
20 inappropriate to keep these children in hospitals.

21 The cost of 16 hours of PDN services is
22 approximately one-third the cost of a day in the
23 hospital.

24 So, obviously, we would like to work toward
25 avoidable hospital utilizations, and help save the

1 state of New York precious Medicaid resources.

2 And while Medicaid rates in the state are
3 lower than necessary to maintain this robust
4 workforce, there's a lack of a PDN rate floor in
5 New York, which makes it possible for MCOs to pay
6 less than Medicaid, forcing clinicians and agencies
7 to cut our costs when we're reimbursed less than
8 what is guaranteed by Medicaid.

9 By establishing a PDN rate floor for MCOs,
10 hopefully, the State will be able to provide
11 providers with an opportunity to recruit and retain
12 workforce.

13 And we definitely want the most qualified
14 caregivers for these complex and high-acuity
15 children and older adults.

16 Lastly, it's important to note that LHCSAs
17 have a harder time recruiting and retaining nurses
18 for patients who are over the age of 23, due to the
19 wage cliff created by the Medicaid pediatric rate
20 enhancement for medically-fragile children.

21 We recognize that this was likely
22 unintentional, but what happens is, because of this
23 rate enhancement, when a child turns 23, with a
24 severe disability, the nurse loses roughly
25 30 percent of their pay due to the lack of the

1 enhancement that was attributed with that case.

2 In order to protect these patients from
3 losing their lifelong nurses in many circumstances,
4 and in an effort to help support this ongoing
5 workforce shortage, we do ask that the legislature
6 consider extending that enhancement rate for
7 medically-fragile children over the age of 23.

8 And, lastly, as we look to things that are a
9 little bit different than our skilled workforce,
10 like our unskilled workforce -- which I don't like
11 that term for our personal care assistants -- we
12 really ask that we look to looking at these rates as
13 well, that will help personal-care assistants across
14 the state, specifically in the consumer-directed
15 program.

16 The CDPAP program has increased access to
17 care for approximately 75,000 New Yorkers,
18 statewide. And the importance of this program was
19 obviously further emphasized during the pandemic.

20 Given the work that Maxim and other FIs
21 have put into running a highly successful operation
22 within CDPAP, I would be remiss if I did not voice
23 our concern regarding the ongoing RFO process that
24 many of my colleagues have brought up, that have
25 threatened to drastically reduce access to FIs,

1 and take away job opportunities from these numerous
2 personal-care workers.

3 In order to increase the unskilled workforce
4 in home- and community-based services, we ask the
5 legislature work to preserve this program by
6 allowing good-faith FIs to continue to operate in
7 this program, with specific attention to FIs that
8 practice areas of excellence and promote easier
9 access to job opportunities.

10 Thank you-all so much for your time, we
11 greatly appreciate it.

12 And we look forward to working with you in
13 the future.

14 SENATOR MAY: Thank you.

15 Any last comments or questions?

16 SENATOR RIVERA: Last comment I'll say, the
17 gentleman who came from Long Island, you know, it
18 being the time that it is, there's a couple of great
19 restaurants in the neighborhood; if you just want to
20 stay the night, and take off tomorrow morning very
21 early.

22 Just as a suggestion, because it's going to
23 be a long drive.

24 But in all seriousness, thank you to everyone
25 for being here, particularly all of the -- there's

1 obviously some very key, I think it was -- what was
2 it? -- the one -- oh, yeah, we need to make sure we
3 fund it more adequately.

4 That we provide a more stable revenue source,
5 that we provide a more -- just -- that we provide
6 better conditions for these folks, who perform an
7 incredibly important job, and which is only going to
8 become even more necessary in the years to come.

9 And that we have an opportunity -- as
10 I believe there was a lady just said it very
11 recently, there was an opportunity, because of the
12 crisis that we are in, we are in a crisis, we
13 shouldn't waste it. I think it was what she said.

14 I believe, you know, I always said, that we
15 have an obligation at times like this, to actually
16 really invest, to really think in the long term, and
17 not just think, you know, as we said before, penny
18 wise, pound foolish.

19 But, really, a couple of great places I'll
20 suggest.

21 MATTHEW HETTERICH: Are we going to dinner?

22 SENATOR RIVERA: I'm going someplace.

23 I'm just saying you should, too.

24 SENATOR SERINO: I just want to say thank you
25 to everybody.

1 You know, everybody that has come before us
2 today really cares about what they do.

3 We are headed towards a crisis and it has to
4 be addressed.

5 You know, like I've said many times over
6 through the years, our seniors and our vulnerable
7 populations have kind of been like an after-thought,
8 and [indiscernible].

9 And it's something that we really have to
10 work on now.

11 So I really appreciate everybody's testimony
12 today.

13 Thank you.

14 SENATOR MAY: And let me conclude with the
15 same.

16 It's gratitude to you, and to everybody who
17 has been here.

18 We talked about this crisis, but that means
19 even more, that those of you who are still doing
20 this work are doing it out of love and commitment
21 and passion.

22 And it is that much more important that you
23 keep doing what you're doing, and that we find ways
24 to support you in it.

25 So thank you to everybody who has tuned in

1 here, who has been here in person.

2 Thank you to the staff, who have been
3 amazing, and keeping this running; all of you.

4 And I'm just grateful to all of you, and to
5 my colleagues, for sticking with it, but also the
6 ones who have been here in the course of the day.

7 So, thanks again.

8 The hearing is officially over now.

9 Thanks.

10 (Whereupon, the public hearing held by the
11 joint committees concluded, and adjourned.)

12 --oOo--

13

14

15

16

17

18

19

20

21

22

23

24

25