

STATE WIDE

New York StateWide Senior Action Council, Inc

Improving The Lives of Senior Citizens & Families in NY State

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Senate Hearing

on

**Nursing Home, Assisted Living, and Home Care Workforce –
Challenges and Solutions**

Van Buren Room A

Legislative Office Building

2nd Floor

Albany, NY

Tuesday, July 27, 2021

9:00 Am

**María Alvarez, Executive Director
NY StateWide Senior Action Council**

Good morning, my name is María Alvarez, Executive Director of NY StateWide Senior Action Council, a grassroots non-profit organization, led and directed by consumers that has served elders and families in New York State since 1972.

We operate 3 Helplines with state-wide capacity. Two of them, our Managed Care Consumer Assistance Project and our Patients' Rights Helpline are funded through the NYS Budget and administered through the NYS Office for the Aging. The third helpline is the federally funded Senior Medicare Patrol, of which StateWide is the sole grantee for New York State.

Our ten regional volunteer – led chapters, our members, the three helplines as well as our numerous community interactions with elders, caregivers, families, and professional colleagues give us the unique perspective of how policies and trends affect Older New Yorkers and their families.

By analyzing the information that we receive we are also in the position to identify the community's needs, possible solutions, and inform policy makers on these topics.

My testimony will be one that will identify the issues as they are affecting elders and caregivers today and the impact this will have for the future – along with possible solutions for your consideration.

Background:

NYS elderly population has been growing rapidly and will continue expanding exponentially through the year 2040, as the baby boomers age into the 65+ ranks. In fact, between 2016 and 2026, it is projected that the 65+ population will grow by 1 million while the number of New Yorkers aged 18 to 64 is projected to decrease by almost 400,000. Currently, NYS has more persons who are 65 years of age and over than those who are 13 years of age and under. With an Old Age Dependency Ratio of 27.2 per cent which will continue to increase as the years pass, it is imperative that we institute a better home care and nursing care workforce starting now.

Various census and labor market reports demonstrate that the personal aide industry – home care and in nursing homes – is exploding along with the population that it serves. Yet there is a terrible home care shortage and nursing home recruitment and retention problem that if not addressed will have devastating implications to the health care industry and society in general. By providing a living wage, regular hours, generous benefits, and worker supports, these problems can be addressed successfully.

Trend

As policies have shifted, the current trend is to prevent costly hospitalizations for elderly patients through community-based home care services. Understaffing is a problem for accessing a good quality of care in nursing homes

In traditional economics, leaders of industry would see an opportunity to make money and resolve this issue. However, in the personal care industry, we are

finding that the most important asset – the worker – is not valued and therefore would have to work long hours, under less than favorable conditions, many times not given enough hours to qualify for benefits, for a median state hourly pay of \$14.86 per hour for home health and personal aides and \$19.60 if you are nursing home aide. (*May 2020 Bureau of Labor Statistics Report*) This causes head spinning turnover rates in the fastest growing segment of health care.

Of course, these positions are mostly filled by women. In urban areas mostly women of color occupy these positions.

Another Point of View: The Family Caregiver

There is another wrinkle to this problem: the unpaid caregiver – family members & friends who take care of their loved ones. Our system of delivery of community-based health care services places a disproportionate amount of the burden on families and loved ones who do not get paid to perform these duties. Families should be in the position of overseeing home or nursing aides rather than performing the actual care for hours on end.

Unpaid caregivers, while they come from all walks of life, are mostly women, of lower incomes and communities of color. Reflexively, their loved ones are largely of the same demographics, and many cannot afford private pay care even if it were available.

According to a report by AARP, in 2017 there were 2.5 million NYS unpaid caregivers providing an estimated value of \$31 million annually. Knowing how the pandemic has wrought havoc on this industry, I would venture to say that those figures have dramatically increased.

One thing that must be quantified is the true value of an unpaid caregiver's time. Not only is the caregiver providing hours of unpaid care, and many times sacrificing their professional advancement and earning potential, but they are also not able to save money for retirement, they are not contributing to Social Security, many people go into debt and bankruptcy, their health care and mental health wellness are put into jeopardy, and many caregivers retire later – or try to find jobs at a later stage in life – to make ends meet.

Currently baby boomers have not been able to save enough for their retirement. The Transamerica Center for Retirement conducted a study in 2019 that showed that the average Baby Boomer had been able to save \$152,000 for their retirement – a very low figure.

One thing that adds to this concern is the next large retirement group – the Millennials, those born between 1981 -1996. New York Life's recent ***Caregiving & Covid 19 Sandwich Generation White Paper***, reports that 26% of Millennials have been spending more money on necessities due to the COVID environment while 31% says that they have cut back on retirement savings.

These are systemic issues that must be addressed to secure the well-being of today's senior citizens, and that of future generations.

Examples

Through our many conversations with consumers who call our helplines and attend our community events, we have been hearing about the effect these issues are having in the community. I will share a representation of our cases.

Home Care: Caregiver's mother has dementia that has become more acute during the pandemic. While the caregiver worked from home during the pandemic, she was able to adjust some of her work time to care for her mother at the times when the mother was likely to need more attention due to wandering and insisting on going home – even though she was in her apartment.

The situation progressed to the point where the caregiver had to take time off from work. She initially sought assistance from her local Area Agency on Aging, where she was placed on the Expanded In-Home Services (EISEP) waiting list. After 6 weeks of full paid time off (vacation and other time accrued), the caregiver has only been able to secure 15 hours of home care per week. Those 15 hours are dependent on the availability of the aide, who has informed the caregiver that she will be changing her hours. So, the ability of the caregiver to work at a paying job is severely limited and not stable due to the fact that she is at the mercy of a home attendant's availability since there is no backup that the home care agency can provide. What happens if the aide is sick or late one day? What if the aide quits altogether?

The temporary solution for this client has been to register for Paid Family Leave. While this is a useful ***intermittent*** benefit, it is ***not*** an adequate solution for a situation where home care cannot be provided to cover all of the hours needed for

the caregiver to work full time. So, in essence, a single woman, head of household, with a moderate income will live on 67% of her regular paycheck every week until she is able to obtain full time home care for her mother or until the benefit runs out 12 weeks later. Neither her mother nor she have unlimited funds to pay for these hours. They are currently paying out of pocket for the care, and will quickly spend down to Medicaid/

Systemically speaking – if this trend is multiplied around the state (as our helplines have demonstrated lately), we predict that there will be a stampede to the Medicaid offices, causing an even larger burden of care for NYS.

Nursing Homes

Staying with the same client, another option she is looking into is placing her mother in a nursing home. First of all, the guilt of not being able to care for her mother at home is heart wrenching. However, the lack of community-based supports propagates physical, emotional, and financial situations that lead to this decision.

Finding an adequate nursing home that will be close enough to visit on a daily basis is challenge enough. However, to find a nursing home that does not have excessive violations, will have reasonable visitation policies, and has enough staff to care for a patient have delayed her decision of whether to institutionalize her mother or not.

StateWide's Patients' Rights counselors often field questions and complaints from family members stating that the staff at nursing homes all over the state are neglecting the care of their loved ones. Meals are not delivered promptly, they are

left on a table where the resident cannot reach it, calls for help go unanswered, they are left in a wheel chair all day, any many other issues. Pre-Covid, on many occasions, the caregiver would visit frequently and would even do some of the duties that were supposed to be performed by staff. The biggest complaint in these situations has been that there are not enough aides to tend to all of the residents.

During the pandemic, the State of NY prevented visitation. This has caused a world of pain for residents and caregivers alike. It is well documented that many nursing homes lost even more staff members due to COVID. This exacerbates the care problems even further. We have received numerous calls and heard horrifying stories from caregivers stating that their loved ones have lost excessive amounts of weight, patients with dementia deteriorating due to not being able to see their loved ones, and frustration, anger, and worry because there were not staff available to even do a virtual visit with their loved ones.

I am stating this not from the visitation perspective – which we have addressed with legislators in different forums – but from the position that the lack of adequate staffing in the nursing homes has created disastrous circumstances for the most vulnerable patients and those who care for them.

Where to Turn?

The Long-Term Care Ombudsman Program, while a valuable community resource, has been totally overwhelmed as it has been underfunded and undermanned for years. We have had ombudsmen from local offices explain that in many cases only one or two people cover all of the institutions in multiple counties. They have asked us to tell the caregivers to call their local elected officials and inform them of this

situation. You may have seen the recent newspaper article in Western NY reporting on a 10-year veteran Ombudsman who resigned in frustration over unresolved and unanswered complaints.

Calls to the **NYS DOH Complaint Line** where caregivers and residents are reporting quality of care and staffing deficiencies have gone unanswered on many occasions. And yet we ask ourselves: **Where is the Accountability?** What recourse do consumers have in a situation where there is an utter lack of enforceability that has yielded high infection rates, low patient staffing ratios, and, quite frankly, death.

There was a time when the Legislature dictated policies, consumer input was sought, and any disregard for the law had significant consequences. These days many of the policies put in place are implemented without consumer input or consideration. This has led to practices that benefit providers to the detriment of the consumers.

We have an unresponsive system that takes years to respond to complaints and dispenses fines that are so inadequately low that they are considered as just the cost of doing business by most institutions. Nursing homes have been sold to private entities without community input. In NYS only 3% of nursing homes are publicly owned. What possible outcome can we have when the owner of a nursing home is concerned with the bottom line rather than the care of its residents? I will tell you what outcome to expect: higher infection rates, more staffing vacancies, more violations, and lower overall ratings.

Conclusion:

These issues are not new. We have had hearings, briefings, and informational sessions in the past. However, what the COVID-19 Pandemic has done is brought them into clear focus. If we do not implement corrective actions soon, not only health care, but society in general will descend into a chaotic abyss where the workforce will be largely unavailable, there will be less paid care for 25% of the NYS population and the New Yorkers that will be aging into the 65+ cohort will have less resources, worse health conditions, and even less care available to them creating a heavier strain on public resources.

One last thought: This industry, the future seniors, and our society in general will have a largely immigrant population, with women who want an opportunity to work and succeed, and who will eventually be the recipients of these services. By giving this group an opportunity to earn a living wage, better health care, retirements benefits, good working conditions, dignity, and respect, we will actually improve the local economy, improve their health care, and have a more prosperous and better educated citizenry of the future.

Proposed Solutions

We urge you to take the following steps:

Both sectors:

- Convene a Stakeholder Task Force including consumers to brainstorm and make recommendations. (Consumers voices must be part of the Reimagining Long Term Care Task Force, if signed)
- Provide a role for the NYS Labor Department to connect interested people to the work readiness skills training and job openings.
 - Prioritizing long term care workforce issues by making this a focus of local workforce development agencies, focusing on recruitment and retention.
- Prioritize use of Workforce Investment funds, Welfare to Work and SCEP training and placement initiatives to address the crisis.
- Prioritize long term care workforce issues as an investment by regional Economic Development Councils.
- Ensuring safe patient handling procedures are in use so that workers and patients are not harmed. With appropriate equipment and training, fewer workers may be needed for a specific assignment, such as lifting a patient.
- Workers should receive bonuses for recruiting others.
- Workers should receive sign on and longevity bonuses. Provide funds for sign-on bonuses extending over five years, released in annual increments with a balloon bonus at the end of five years; renewal sign on bonuses for additional five-year period

- Geographic & transportation barriers in rural areas and some urban and suburban areas make it difficult for aides to get to work.
 - Regional transportation authorities should be encouraged to consider public transportation routes/stops that work with care workers schedules.
 - Mileage reimbursement for home care workers must be part of compensation packages, minimally for those that care for more than one client a day.
- Innovative recruitment and retention incentives should include:
 - minimum guaranteed hours of work,
 - more predictable work schedules,
 - recruitment and longevity bonuses,
 - payment for hours getting to and between work assignments,
 - an allowance for transportation expenses,
 - health care benefits, child care benefits,
 - paid sick and vacation leave,
 - contributions towards retirement security.

A sizable percentage of workers across all employment sectors have no or very little money in savings and investments. This is especially true for lower income workers. Employer sponsored retirement benefits would be a good retention strategy for the home care paraprofessional workforce and may reduce the high rates of turnover.

Institutional Care:

- Many of the agencies only hire part time workers with no benefits...this leads to high turnover rates. It also creates a higher risk of infection spread, especially during an outbreak. Workers should be paid a livable wage, with opportunities for advancement.
- Create a mentored apprenticeship program with stipend for experienced paraprofessionals who recruit and mentor new hires. This strategy can be an important tool to increase the diversity and cultural competence of the workforce.

- Strengthening training programs and requirements for long term care providers, including training for nurse aides, and requiring nursing homes to maintain staffing levels with trained Certified Nursing Assistants (CNAs), instead of the more poorly trained and poorly supervised feeding assistants.
- Mandating minimum staffing levels in skilled nursing facilities to 4.1 minimum hours of resident care per day, ensuring care from registered nurses is no less than .75 hours per resident per day care to ensure the safety and care of patients/residents.
- Require that an infection control nurse be present in skilled nursing facilities daily to ensure that infection control education is provided, and protocols are being followed.
- Stop the practice of sending nursing home residents out of state due to lack of capacity in a region by supporting training to ensure that local providers can meet care needs, especially for those with dementia and other special care needs.
- Improve recruitment and retention in the long-term care ombudsman program

Home Care:

- Both the Medicaid and Non-Medicaid populations are underserved. Regardless of a person's income, there simply are not adequate home health aide services available to provide care to those who need it and are authorized to receive it.
 - Solutions that ONLY address Medicaid are needed but are insufficient to meet the population needs
 - Adjustments in rates must be accountable and transparent. Funding that goes to Medicaid Managed Long Term Care (MLTC) plans must be directed toward recruitment and retention of the paraprofessional home care workforce.

- Data must be included in cost reports to show when hours of care have been assessed/approved, but not delivered due to workforce shortages. Such reports must be shared in a timely manner with the Legislature and the Department of Health as well as with the Department of Labor who should be encouraged to formulate local, regional, and statewide strategies as needed.
- The Medicaid Inspector General should be charged with review of MLTC and home care employers' cost reports to ensure that additional funds in fact were directed to recruitment and retention incentives for the employees for whom it was intended
- Improve the fiscal solvency of the local home care agencies to ensure access to providers in every county, particularly in rural areas that are underserved.
- A public campaign (PSA) is essential to overcome a negative image of home care workers and rebrand the workforce as paraprofessionals.
 - Provide a role for the NYS Labor Department to be the conduit for people who respond to the campaign and utilize the DOL work readiness skills training, including English as a second language, and connect them to job openings.
- Encourage innovation in design of Home Medical Equipment products used by older adults to address declines in functional level.
- Many of the agencies only hire part time workers with no benefits...this leads to high turnover rates of home care workers. Ensure predictable schedules and health care, leave and retirement benefits.
- Support Fair Pay for Home Care to address salary issues, but more effort needs to ensure that workers have health benefits and vacation and sick leave.
- Restructure home care delivery systems to enhance more predictable work schedules

- Create reasonable tire replacement, car maintenance and repairs allowance programs for aides
- Collect data on hours of assessed/approved care that is not being met by home care providers.
- Make sure that workers are paid for all hours worked and that live-in assistance remains an option for those with need for such services.
- Create a funding stream for innovative pilot projects to incentivize the growth of the home care workforce, which would be tested and replicable throughout different areas of New York State