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Before the Senate Standing Committees on Aging, Health, and Labor

Topic: Nursing Home, Assisted Living, and Homecare Workforce-Challenges and Solutions

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The Center for Elder Law & Justice ("CELJ") has been serving the Western New York region for over 40 years, providing free civil legal services to older adults, people with disabilities and low-income families. CELJ's primary goal is to use the legal system to assure that individuals may live independently and with dignity. CELJ also advocates for policy and systems change, particularly in the areas of elder abuse prevention, long-term care services and supports reform, consumer protection, and housing reform. Currently, CELJ provides full legal representation in the nine New York counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Steuben, and Wyoming. The agency's Free Senior Legal Advice Helpline is open to all of New York State ("NYS"). CELJ operates a main office in downtown Buffalo, with two additional offices in Niagara and Chautauqua counties.

Now is the time to invest in the people of NYS and to ensure all individuals have the ability to age with independence and dignity. This means investing in the long-term care workforce, while at the same time reforming the delivery of long-term care services and supports. Both are necessary to ensure that every person who needs long-term care services and supports receives them, they are of quality, and promote independence and autonomy in the least restrictive setting.

The issues of the long-term care workforce shortage is nothing new and we encourage the Senate, to think holistically and not in silos as the Senate works to address the issue. While the majority of our testimony pertains to the workforce shortage crisis as it pertains to nursing homes and assisted living facilities, it is essential that the Senate, the Legislature, and the Executive, implement policies that prioritize keeping older adults and persons with disabilities in the community and out of institutionalized settings. If we are taking appropriate measures in keeping older adults and persons with disabilities in the community, then the number of nursing home beds in NYS will naturally decrease, which should be part of an intentional effort and not result

in rampant wide-spread closure.[1] As part of this decrease, it is essential that nursing home operators are held to appropriate staffing standards and do not cut staff as was seen during the public health emergency.

We offer comments and recommendations in the following areas:

A. Addressing the Workforce Shortage is a Key Component to Achieving Health Equity.

The effects of the workforce crisis disproportionately impacts residents in facilities with higher percentages of minority residents and minority workers. By addressing the crisis through recruitment, retention, and advancement initiatives for workers (that also support the diversity within the workforce), the quality of care received by diverse residents will improve, and in turn, so will health equity in the state.[2]

[1] While outside the focus of the hearing, many nursing homes as they currently operate are institutions; warehouses for older adults and people with disabilities. If institutions of the past, WIllowbrook, for example, were not appropriate for people with intellectual disabilities, nursing homes, as institutions, are not appropriate now. While nursing homes as a whole cannot be randomly closed, as that would cause resident harm, strategic downsizing initiatives, such as decertifying beds within a facility (while increasing access to live in the community), requiring private rooms, and implementing the foundations of the greenhouse model, are key means to improving resident care and life services and supports.

[2] *See* i.e., Cromer, Tyler, Rizer, Allison, Claypool, Henry, Tumlinson, Anne, "Modernizing Long-Term Services and Supports and Valuing the Caregiver Workforce", Health Affairs, April 13, 2021, accessed at: https://www.healthaffairs.org/do/10.1377/hblog20210409.424254/full/ ; and Farrell, Chris, "How Helping America's Caregiving Workforce Can Address Diversity, Equity, and Inclusion", Forbes, May 21, 2021, accessed at: https://www.forbes.com/sites/nextavenue/2021/05/21/how-helping-americas-caregiving-workforce-can-address-diversity-equity-and-inclusion/?sh=7c38e51d5336

For example, racial and ethnic minorities, who are more likely to be dually eligible for Medicaid and Medicare than whites, are almost 10 percentage points more likely than non-duals to be admitted to a low-quality nursing home.[3] During the public health emergency, facilities with significant African American/Latino populations were twice as likely to face virus outbreaks compared to facilities with majority white populations.[4] Due to poor quality of care, these facilities are more likely to have their funding cut, creating a "circular depreciation of quality."[5]

For the caregivers, there are disproportionate effects of poor job quality on minority workers. Nursing positions in nursing homes considered among the most dangerous, especially during the pandemic. However, due to low wages, 36% of nursing home workers require public assistance. Of these workers, 92% of nursing home assistants are female, 57% belong to a racial or ethnic minority, and 22% are immigrants to the U.S.[6] The poor job quality in the sector perpetuates these inequities both among workers and residents.

An investment in the long-term care facility workforce, just like with the homecare workforce, is an investment of the people in NYS.

B. Long-Term Care Facility Staffing Crisis in WNY: Facility Example

As detailed in prior testimony, insufficient staffing and poor quality care is pervasive in many WNY nursing homes.[7] One example is Safire Rehabilitation of the Southtowns, LLC ("Safire South") which is currently a 1-star CMS rated facility. Since 2017, Safire South has been cited six times in a row for insufficient nurse staffing: May 25, 2021;[8] August 22, 2019;[9] June 5, 2019;[10] July 26,

[3] Harrington, Chapman, Halifax, Dellefield, Montgomery, "Time to Ensure Sufficient Nursing Home Staffing and Eliminate Inequities in Care," *HSOA Journal of Gerontology and Geriatric Medicine*, 2021, accessed at http://www.canhr.org/downloads/HGGM-21-021.pdf .
[4] NY Times, "The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes," 2020, https://www.nytimes.com/2020/05/21/us/coronavirus-nursing-homes-racial-disparity.html
[5] Lantsman, Berhane, Hernandez, , "To Achieve Equitable Quality of Care in Nursing Homes, Address Key Workforce Challenges," *Health Affairs*, 2021, accessed at https://www.healthaffairs.org/do/10.1377/hblog20210210.904101/full/ .
[6] Harrington, Chapman, Halifax, Dellefield, Montgomery, "Time to Ensure Sufficient Nursing Home Staffing and Eliminate Inequities in Care," *HSOA Journal of Gerontology and Geriatric Medicine*, 2021, accessed at http://www.canhr.org/downloads/HGGM-21-021.pdf .,
[7] Aug. 10, 2020 https://elderjusticeny.org/testimony-to-the-nys-legislature ; and October 18, 2019 https://elderjusticeny.org/celj-staffing-study-written-comments/
[8] Event ID 0N3E11
[9] Event ID 98KL
[10] Event ID 31MJ11

2018;[11] April 24, 2018;[12] and December 28, 2017.[13] For an overview of the prior insufficient staffing deficiencies, see our testimony before the NYS Department of Health (DOH) on September 20, 2019.[14]

Staffing matters, and in its most recent recertification survey, the DOH found that Safire South failed to ensure that residents with pressure ulcers received the necessary treatment and services to promote the healing, prevent infection, and prevent new ulcers from developing. (For 3 of 3 residents reviewed.) Specifically the DOH found: "the lack of a pressure ulcer assessment by a qualified individual, and a delay in obtaining treatment orders for the newly identified pressure ulcer (R#68); the lack of addressing and initiating wound care specialists' recommendations (R #68);" and "the lack of proper infection control practices during a treatment observation for a resident with a stage 4 pressure ulcer (a full thickness loss of tissue with exposed bone, muscle, or tendon exposed) (R#29)." This is the third time Safire South has been cited for this deficiency: May 25, 2021; August 22, 2019; and July 26, 2018.

In addition, during interviews, the challenges of working short-staffed are throughout the survey report. For example, when being interviewed by the DOH about the lack of initiating wound care specialists' recommendations, the RN stated there was a delay in changing treatments as recommended by the wound consultant because she is working as a staff nurse more often than a unit manager and unable to complete all of the unit manager job tasks. It is difficult for a unit manager to do their job, when they are filling in as a staff nurse. Resident care suffers, and staff risk burnout, when a facility is consistently short staffed.

As detailed in the below table, Safire South, based on data prior to and during the COVID-19 public health emergency, has repeatedly ranked at the bottom tier of total nurse staffing, LPN, and CNA staffing.[15] In addition, Safire South has one of the highest utilization of contract staffing, which is associated with poor quality care.[16] Consistent staffing, where staff can build relationships with residents is crucial to resident quality of life and well-being.[17]

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[11] Event ID TGOE
[12] Event ID GTSB
[13] Event ID MRH0
[14] *Accessed at*: https://elderjusticeny.org/ny-state-nursing-homes-staffing-study/
[15] Data obtained from Long Term Care Community Coalition averaged data set, accessed at https://nursinghome411.org/data/staffing/ ; information verified using CMS Payroll Based Journal Data accessed at https://data.cms.gov/ .
[16] For example *see* McConeghy, Kevin et al. "LB-19. Association between contract staffing and reported outbreaks of SARS-CoV-2 in a cluster-randomized trial of 965 U.S. nursing homes." *Open Forum Infectious Diseases* vol. 7,Suppl 1 S853. 31 Dec. 2020, doi:10.1093/ofid/ofaa515.1916.
[17] Note: it is also important for care in the community. For example, *see* Ma, Chenjuan et al. "Continuity of Nursing Care in Home Health: Impact on Rehospitalization Among Older Adults With Dementia." *Medical care*, 10.1097/MLR.0000000000001599. 23 Jun. 2021,

Quarter/Year	Total (Rank*)	RN (Rank)	%RN contract (Rank)	LPN (Rank)	%LPN contract (Rank)	CNA (Rank)	% CNA contract (Rank
Q4/2020+ Census:98	2.42 (67)	0.58 (16)	37.2 (2)	0.58 (64)	30.9(11)	1.26 (67)	21.2 (7)
Q3/2020- Census: 99	2.14 (70)	0.54 (24)	38.0(1)	0.61(24)	70.3(2)	.99 (25)	14.2 (9)
Q2/2020- Census: 105	2.31(69)	0.49 (29)	28.7 (1)	0.60(66)	66.3 (2)	1.23 (69)	11.8 (9)
Q1/2020+- Census: 108	2.79 (44)	0.54 (14)	22.8(1)	0.66 (47)	58.1(2)	1.60 (46)	17.5(3)
Q4/2019- Census: 110	2.75(64)	0.54(18)	19.1 (1)	0.64 (67)	52.4(4)	1.57(69)	29.1 (4)
Q3/2019- Census: 103	2.78(66)	0.60(13)	12.1(6)	0.51(69)	49.3(4)	1.68 (69)	31.9 (4)
Q2/2019-+ Census: 103	2.45 (70)	0.44(31)	2.7 (17)	0.48(70)	62.7(1)	1.53(71)	39.3 (4)
Q1/2019-+ Census: 103	2.60 (71)	0.34(49)	6.2 (8)	0.78 (57)	43.2 (4)	1.48 (70)	35.8 (4)

*Rank is out of the WNY nursing homes that submitted date to CMS for the quarter: for standard staffing measure, lower rank=better staffing. For the % of contract staff used, higher rank=lower use of contract staffing.

+ 69 nursing homes in WNY submitted data to CMS for the quarter
- 70 nursing homes in WNY submitted data to CMS for the quarter
+- 53 nursing homes in WNY submitted data to CMS for the quarter
-+ 71 nursing homes in WNY submitted data to CMS for the quarter

doi:10.1097/MLR.0000000000001599, which found consistency in nurse staff when providing home health care visits to persons with dementia is critical for preventing rehospitalizations. Persons with dementia do not need to be left in nursing homes.

In comparing Safire South with 5 nearby nursing homes,[18] all 5 facilities had higher average total staffing, 2 had better RN staffing[19], all 5 had higher average LPN staffing, and all 7 had higher average CNA staffing in Q4 of 2019. Use of reported contract staffing during that same period, Safire South had the highest % of RN contracting (19.1%), highest % of LPN contracting (52.4%)[20], and highest % of CNA contracting (29.1%).

Comparing Safire South with these same 5 facilities in Q4 of 2020: all 5 facilities had higher average total staffing, 2 had higher average RN staffing,[21] all had higher average LPN staffing, and all had higher CNA staffing. Use of reported contract staffing that same period, Safire South had the highest % of RN contracting (37.25%), 2 facilities used higher % of LPN contracted staffing,[22] and 1 used higher % CNA staffing.[23]

While the data used for the above is not perfect, especially for the reporting periods during the COVID-19 public health emergency, it does demonstrate, in conjunction with the May 2021 survey results, the continued failure of Safire South's operator to ensure 'sufficient' staffing and offer a comparison regarding its usage of contract staffing to other facilities nearby.

In addition, when addressing the workforce crisis, it is important to remember the non-nursing staff: housekeeping, dietary, social work, therapy, and others. These non-nursing employees play a key role in the physical, social, and psychosocial well-being of every residents. Including, for example, discharge planning to return to the community.

When investigating and handling the issue of the workforce shortage, a question must be asked: why don't people want to work at certain facilities? Yes, low pay is a factor, however there are other keys to recruitment and retention: teamwork, respect, and organizational culture.

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[18] Note: there are 7 nursing homes: Buffalo Center for Rehabilitation and Nursing; Ellicott Center for Rehabilitation and Nursing; Elderwood at Cheektowaga; Mercy Hospital Skilled Nursing Facility; Garden Gate Health Care Facility; Seneca Health Care Center; Highpointe on Michigan Health Care Facility. Because Mercy Hospital Skilled Nursing Facility and Highpointe on Michigan Health Care Facility are both affiliated with hospital systems we removed them for the comparison. 5-mile facility radius information pulled using CMS Care Compare: https://www.medicare.gov/care-compare/results?searchType=NursingHome&page=1&city=Buffalo&state=NY&zipcode=14220&radius=5&sort=closest

[19] Seneca Health Care Center; Garden Gate Health Care Center.

[20] Note Ellicott Center for Rehabilitation and Nursing was close behind at 51.0%

[21] Seneca Health Care Center; Garden Gate Health Care Center

[22] These facilities were Buffalo Center for Rehabilitation and Nursing (66.1%) and Ellicott Center for Rehabilitation and Nursing (69.2%). Safire South (54.6%).

[23] Buffalo Center for Nursing and Rehabilitation (46.0%). Safire Rehab (21.2%)

C. Enforcement of Standards is Key to Pushing the Industry to Evolve.

Nursing homes need to do better and some things cannot be legislated: teamwork, organizational culture, career training and advancement, and respect. All of these things that can reduce turnover and worker burnout.[24] Enforcement of the staffing requirements is needed to ensure resident care and life needs are being met. With proper enforcement, operators will be pushed to address what cannot be legislated in order to recruit and retain staff. While NYS can offer "carrots", such as grants or awards for nursing homes to improve staffing recruitment and retention, at some point the "stick" needs to be more strongly utilized to get operators to comply with their federal and state mandated responsibilities. We have previously testified about our concerns with the DOH's ability to enforce the resident rights and safety standards.[25] Our concerns still remain, and while we understand NYS will have minimum statutory staffing standards in 2022, we are skeptical that any meaningful enforcement of these, and resident rights and safety standards, will occur.

In addressing the workforce shortage issues, it is important to remember that nursing homes make the choice to admit new residents. Once a new resident is admitted, it is the nursing home's responsibility to ensure that individual's needs are met, in addition to the other residents in the building. If a nursing home is not properly staffed (whether nursing, social work, dietary, or housekeeping), that nursing home should cease admitting new residents.

In addition to passing a law that mandates nursing homes cease to admit new residents when they are not meeting minimum staffing requirements, the Legislature can also pass a law that implements a "do not refer" list similar to that established for adult care facilities, that would prohibit hospitals from discharging patients to understaffed facilities.[26] Furthermore, there needs to be a reinvestment of how Medicaid dollars are spent. If this means increasing reimbursement rates, with proper oversight,[27] to enable nursing homes to operate with less beds (and private rooms), and ensure residents have meaningful opportunity to return to the community or other location of their choosing, then detailed public discussions and transparency from operators, needs to occur to consider incorporating that into the budget.

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[24] *See* White, Elizabeth M et al. "Nursing home work environment, care quality, registered nurse burnout and job dissatisfaction." *Geriatric nursing (New York, N.Y.)* vol. 41,2 (2020): 158-164. doi:10.1016/j.gerinurse.2019.08.007 *See also* Boakye-Dankwa, Ernest et al. "Associations Among Health Care Workplace Safety, Resident Satisfaction, and Quality of Care in Long-Term Care Facilities." *Journal of occupational and environmental medicine* vol. 59, 11 (2017): 1127-1134. doi:10.1097/JOM.0000000000001163.

[25] August 10, 2020: https://elderjusticeny.org/testimony-to-the-nys-legislature/

[26] *See NY Soc Ser. Law 460-d(11-15)*

[27] While some oversight efforts are dependent on the rollout of the new 70:40 spending ratio requirements, the Legislature may want to consider implementing legislation, similar to the Fair Pay for Homecare Act, which would mandate minimum wages for CNAs.

In addition, it is through proper enforcement of the federal regulations that could open the door to DOH issued grants to address staffing challenges. For example, the federal Civil Money Penalty (CMP) reinvestment program. A CMP is a monetary penalty that CMS imposes against nursing homes for violations of federal regulatory requirements.[28] Once CMS collects the CMP, a portion of it is sent back to the state. CMP funds must be reinvested to support projects that benefit nursing home residents including to protect or improve their quality of care and quality of life.[29] Nursing homes have access to CMP via grants to improve resident care and life. However, it is up to the nursing home/operator to take advantage of these grants and apply. (Same with any NYS-based reinvestment funding.)

One recent example out of Ohio, was a Nurse Leadership Training Program that operated from January 1, 2018 to December 31, 2020. The grant's purpose was to see if training nurse leaders in team-building leadership skills would affect nursing turnover and resident satisfaction. The training concentrated on developing leadership abilities that affected engagement and retention of direct care staff, such as effective communication, managing expectations, accountability, delegation and mentorship. The program, based on information available, was successful and decreased staff turnover rate by 53%; increased resident satisfaction by 17%; and increased family satisfaction by 10%.[30]

During the pandemic CMS did specifically open up CMP funding to purchase tents/plexiglass,[31] and other projects to assist with in person visitation\[32] and to improve communication. While the DOH did open up for applications, NYS however did not expend any CMP funds in 2019.[33]

NYS DOH can publish and publicize state use of CMP funds, in addition to any state-based grant funding that results from enforcement efforts and budgetary initiatives and how operators used the funding. Accountability is key to ensuring operators use the funds properly to increase staffing, reduce turnover, and that resident care improves.

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[28] *See* CMS Money Penalty Reinvestment Program webpage: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/LTC-CMP-Reinvestment

[29] *See* 42 CFR 488.33(a)-(b); and 488.33(e)

[30] *See* https://www.mcknights.com/blogs/guest-columns/cmp-grant-receives-phenomenal-nursing-retention-results-even-during-pandemic/?utm_source=newsletter&utm_medium=email&utm_campaign=MLT_DailyUpdate_20210712&hmSubId=GelZ3vlC0kA1&hmEmail=_CSt8HRCm5tBFeDgnxQO3xhBbeaWi450_90cSqYdYnI1&email_hash=b5dedbd3d47364437dabf0f0df85e1f2&mpweb=1326-20040-4285

[31] https://www.health.ny.gov/professionals/nursing_home_administrator/dal/docs/dal_nh_20-07_ext.pdf

[32] https://www.health.ny.gov/professionals/nursing_home_administrator/dal/docs/dal_nh_21-05.pdf

[33] https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/LTC-CMP-Reinvestment

D. Reward and Expand Programs that Work; But Implement and Direct Resources to get People out of Facilities who Routinely Fail.

In utilizing value based payment (VBP) principles, such as the Nursing Home Quality Initiative, whereby facilities are rewarded for certain benchmarks, such as meeting staffing statutory minimums, percentage of contract/agency staff, and others, it is essential that residents who live in underperforming facilities, like Safire South are not subject to continued substandard living conditions, care, and confinement. While we understand VBP is 'here to stay', we offer the following recommendations to ensure residents who live in poorly operated facilities are not subject to further harm through reduced payments:

- Direct and dedicate resources for helping residents return to the community and prioritize these residents in accessing affordable housing and supports;

- Implement an avenue that would afford residents in these facilities the opportunity to be first on waiting lists to better operated facilities; and

- Require as part of the DOH directed plan of action that the facility intentionally involve resident and family councils in addressing staffing issues and ensure the ombudsman program is involved.

E. Staffing Data is Needed for "Assisted Living Facilities"

In NYS, "assisted living" is commonly used to describe lower levels of care that are not nursing homes. "Adult care facility" (ACF) is a broad term that covers many levels of "assisted living" and are where adults live and receive long-term services and supports but do not need the level of services provided by a hospital or nursing home. Adult Homes (AH) and Enriched Housing Programs (EHP) are the 'lowest' level of ACF care and provide room and board, case management, and other services. Assisted Living Residences, Enhanced Assisted Living Residences, Special Needs Assisted Living Residences, and the Medicaid Assisted Living Program[34], provide additional services and supports than the base AH or EHP licensure is allowed to provide.

In general, ACFs do not have the same requirements as nursing homes and the level of staffing and type and number of staff vary based on the licensure of the facility. The higher level of services the facility is licensed to provide means the higher level of staffing and specific training requirements.[35]

[34] Note: to qualify for the Medicaid Assisted Living Program, the resident technically needs nursing home level of care.

[35] For example, see 10 NYCRR 1001.10 for the personnel requirements for Assisted Living Residence

We know that there are ACFs that are not properly staffed. However there is no publically available information on staffing in these facilities. (Compare to nursing homes.) For example, an Assisted Living Residence with Enhanced and Special Needs beds in Williamsville, was cited in February 2021 at the endangerment level for failure to ensure there were enough staff to comply with the supervision and monitoring requirements necessary to ensure the safety and welfare of the residents.[36] This same facility previously made headlines when a resident who had dementia wandered from her room in December 2017 and almost froze to death. (She died a month later.)[37]

While ACFs are required develop, maintain, and keep written staffing schedules for 12 months, there is no requirement the operator publically post this information at the facility nor is there a requirement for the DOH, make this information public in a database. Without having publically available staffing information, it is hard to quantify the extent of the impact in ACFs. In addition, prospective (and current) residents and their families need to know this information so that they can make informed decisions on where they live. The Legislature can pass legislation that requires ACFs post this information and requires the DOH to collect and publish it.

F. Homecare Workforce Shortage Crisis in WNY: Client Examples

While the majority of our testimony pertains to workforce shortage in long-term care facilities, it is essential that investment in the homecare workforce is also prioritized. The workforce shortage impacts both Medicaid and non-Medicaid populations, and prevents older and adults and people with disabilities from leaving nursing homes and returning to the community. Nursing homes, as they are currently structured and operated, are institutionalizations that overly restrict older adults and people with disabilities lives, and is in direct conflict with the principles set forth under *Olmstead*.[38]

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[36] Event ID #OMJ611

[37] *See* The Buffalo News Article detailing the death of a resident with dementia who wandered outside and froze to death. https://buffalonews.com/news/local/after-wandering-senior-nearly-froze-to-death-amherst-facility-is-fined-1-000/article_c842fde2-38c9-51cd-924b-bacc04216f10.html

[38] The landmark Supreme Court decision, Olmstead v. L.C [527 U.S. 581, 22+ S. Ct. 2176 (1999)], held that unjustified segregation of persons with disabilities is discrimination and violates title II of the Americans with Disabilities Act. It is (or should be) clear: persons with disabilities have a civil right to receive services in the appropriate integrated setting of their choosing.

The following examples are from our Health Care Advocacy Unit:

Client Experience with PACE:
66 year old client, who participates in the PACE program, sustained a fall in January 2021, and went into a nursing home for short-term rehabilitation. Client was ready for discharge in February but was forced to stay in the nursing home until April due to lack of staff to adequately provide a safe discharge plan. Client was only able to return home because she hired a private agency to implement her care. She does not wish to pursue any legal action; she only wants to live at home and is continuing to pay privately to supplement her care.

Client Experience with CASA:
55 year old client, plan of care approves client for "up to 98 hours per week-parents to provide care for nursing hours as ordered by PMD with nursing services not available." Client reports vary rarely getting 98 hours of staffing and having to rely on parents to make up the difference almost every single week for the last 3 years. Another client, 60 years old, approved for 24/7 care, has reported 1-3 shifts per month on average are not staffed. The HHA agency directly reported to CELJ that they have "60-70 open positions on any given day."

Client Experience MLTC/CDPAP:
58 year old client approved for 40 hours through CDPAP and 30 hours through MLTC. Client has consistently had a hard time staffing through both avenues. Another client, who was 98 years old and needed 24/7 care, had an MLTC that tried to consistently reduce her hours at every recertification. The proposed reduction would be smaller each time they recertified, and even though the MLTC lost the prior hearings, the MLTC still continued to try to reduce her hours. She died with a case pending.

The above examples are not rare and are a sample of the many cases we have. Regardless of the Medicaid plan, the shortages impact all beneficiaries who are approved for home care services.

G. Support: Fair Pay for Home Care

The homecare workforce shortage must be immediately addressed in order to fully realize long-term care reform such that it is humane and ensures older adults and persons with disabilities can live with autonomy, independence, and dignity. While the federal government has a role to play in increasing the home care workforce,[39] NYS can take immediate action by including Fair Pay for Home Care in the 2022-2023 state budget. Fair Pay for Home Care would create a new minimum wage for home care workers equaling 150% of the highest minimum wage in a region. As detailed in many reports, most recently by Consumer Directed Personal Assistance Association

[39] *See* for example, "Federal Policy Priorities for the Direct Care Workforce" http://phinational.org/resource/federal-policy-priorities-for-the-direct-care-workforce/

of NYS (CDPAANYS), low wages is a major barrier for Medicaid consumers and home care agencies to hire workers to provide home and community-based services.[40]

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We thank you for the opportunity to provide testimony. Staffing matters. We need a strong direct care workforce in order to achieve holistic reform and support older adults and persons with disabilities to live in the location of their choice; often the community. People should not be left in nursing homes because there is a homecare workforce shortage; nor should people be subject to neglect in nursing homes and assisted living facilities because of staffing shortages

CELJ is available and willing to work with the Legislature, DOH and other entities to address the workforce shortage crisis and to improve the quality and delivery of long-term services and supports.

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[40] CDPAANYS: https://dochub.com/julia-zfarbu/DL7JlEGV1Eq7bpAVrWe0oa/report-issue-brief-pdf?dt=HzsKjSwX3yzAqNaryTox