



Testimony

**Joint Hearing of the Committees on
Civil Service and Labor, Aging and Finance
of the New York City Council
on Int. 1081, 1084 and Res. 993**

**Testimony of Carol Rodat, PHI New York Policy Director
April 11, 2016**

PHI (www.phinational.org) thanks the committees for the invitation to testify at this hearing. PHI (Paraprofessional Healthcare Institute), is a national not-for-profit organization headquartered in the Bronx that works to transform eldercare and disability services. We foster dignity, respect and independence for all who receive care, and all who provide it. We are the nation's leading authority on the direct care workforce and promote quality jobs as the foundation for quality care. PHI has been one of the organizations that has advocated on behalf of better pay and benefits for the direct care workforce, as well as the new home care rule which extends the minimum wage and overtime protections of the Fair Labor Standards Act to home care workers.

My name is Carol Rodat, and I am the New York Policy Director for PHI. In that role, I advocate for the policies and practices that will improve the quality of the jobs of the many titled direct care workers – home care aides, personal care aides, personal assistants, certified nursing assistants and direct support professionals. I have been directly involved in the development of laws, regulations and policies that support the home care workforce, including the Wage Parity law, the Fair Labor Standards Act, and the Sleep-In cases. In my role, I also seek adequate reimbursement rates to cover the costs associated with direct labor.

In addition, I currently serve on the Institute of Medicine's (IOM) Committee on Family Caregiving of Older Adults. That committee is charged with assessing the prevalence of family caregiving, examining the available evidence on the effectiveness of programs and supports for caregivers, and recommending policies to address the needs of family caregivers in order to minimize the barriers they encounter in trying to meet the needs of older adults. The IOM's report with recommendations will be released later this year.

I would like to first address proposed legislation that would authorize a survey of informal caregivers, public and private service providers and service recipients in order to assess existing services and needs (Int. No. 1081). The majority of the hands-on care in this country and state is provided by informal caregivers who are often referred to as "family caregivers." However, in many instances, there is nothing "informal" about the care they are being asked to provide. Today's unpaid caregivers who may have family kinship to the care recipient or not, are asked to provide a range of tasks, from arranging medical appointments, assistance with personal care or household chores to assistance with feeding tubes and catheters. Limited hospital stays and quicker discharges now include the implicit assumption that families will be available to assist with the transition from hospital to home.

At the end of this month, the New York State Caregiver Advise, Record and Enable Act (CARE) will go into effect, requiring hospitals to offer instruction to designated family caregivers prior to discharge. The law also ensures that the family caregiver's name can be included in medical records and that they will be informed of an impending discharge. Instruction and demonstrations of health-related tasks will be offered when the family member is expected to provide certain supports such as administering medications or dressing wounds. While this legislation targets a very important gap in the delivery system, it does not address the ongoing long-term needs that families face when a loved one has a chronic or debilitating condition such as Alzheimer's, Multiple Sclerosis, cancer or ALS. Moreover, as we age we encounter functional limitations without the onset of serious chronic disease that require long-term assistance and support -- and the burden is increasingly falling to families and friends.

Before I address the specifics of the legislation (Int. No. 1081), it is important to underscore the reality of today's demographics as the data are reflective of the importance of the proposals under consideration. While the country's older population is growing – with an expectation that one in five U.S. residents will be 65 or older by 2030, the pool of family caregivers is shrinking – as is the pool of potential paid caregivers. Families are having fewer children, older adults are likely to have never married or divorced and children often live far away. In the past, the women in the family could be relied upon to be available. In fact, the typical caregiver is still female, but more wives, daughters and daughters-in-law now are working and therefore have limited availability, particularly if they have other responsibilities.

The demographics create an imperative for unpaid family as well as paid caregivers. It becomes critical that society understand that caregiving will become a shared responsibility as each of us is likely to need to care for someone in the future if we have not already done so.

Despite the fact that we are an aging society, one with growing health care needs, our focus, particularly here in New York, is often on the formal health care system rather than the aging system's supports and services that have been developed over several decades. In fact, as our health care system continues through the transformation that began with Medicaid Redesign, individual providers of health services often remain disconnected from the other services that families need when they are called upon to provide care for a loved one. The Older Americans Act funds the first and only program specifically for family caregivers – the National Family Caregiver Support Program (NFCSP), which addresses the needs of caregivers for older individuals as well as grandparents and other relatives raising grandchildren. New York has provided resources for families caring for those with Alzheimer's and dementia, but there are

other conditions that lead to long-term caregiving needs. Moreover, when caregivers step into these roles, it is important that their needs be assessed and addressed. Otherwise, their ability to continue to support their loved one is jeopardized along with their health.

In summary, the responsibility for caregiving will continue to be borne by families and others, making it essential that we as a society better understand what services and approaches are needed, whether or not they have been proven to be successful, whether we have sufficient numbers of services and supports, and whether or not they are accessible and delivered in a manner that is culturally competent. While the City's services are an important factor in support for family caregivers, we should be mindful of the fact that the programs and services provided by the City and State can be supplemented by workplace policies and practices that allow flexibility and discourage discrimination.

PHI believes an assessment of the needs, supports and services available to caregivers in New York City is needed, and wishes to register several recommendations and concerns which have been forwarded to counsel and are attached to this testimony:

- The scope of the study is so broad as to prohibit careful analysis and recommendations;
- More than three months is needed to design, test, administer and analyze a survey of this scope;
- The design, administration and analysis of the survey must be fully funded in order to obtain the information desired;
- Survey design should be facilitated by involvement of individuals in the field with experience in the development and administration of surveys of this type;
- Design of the survey should take into consideration the fact that many family caregivers, particularly those from diverse ethnic backgrounds, do not "identify" as such but with the right questions, reveal an extensive amount of support is being provided by them;
- Data should also be collected as to how much paid care informal caregivers are utilizing, and whether or not it is satisfactory and of sufficient amount; and,
- Consideration should be given to how current services might be provided in concert with the health care delivery system

I would now like to turn my attention to legislation that would establish a Division of Paid Care within the Office of Labor Standards. PHI was consulted as to various

strategies and programs that could support the direct care workforce. We strongly support this proposal and believe recent changes in labor and public law have created a need for an independent advocate on behalf of the workers. The home care workforce-- home health and personal care aides caring for elders and people living with disabilities-- is the second largest in the City of New York, numbering over 288,000-- only retail sales workers outnumber these caregivers. They contribute to the City's economy and many are the single heads of households with dependents who rely on their income as well.

New laws, administrative rules and court decisions have improved the wages and benefits of the direct care workforce while creating a complex set of requirements that combine to make understanding accurate calculation of wages earned very difficult. The most important changes are the newly passed state minimum wage, the Wage Parity Law, and the Fair Labor Standards Act. Paid Sick Leave and the New York State Domestic Workers Bill of Rights also provide important time off benefits and access to leave. The newly passed Family Medical Leave Act will also provide extended time off without loss of income when finally implemented in 2018.

The best means of conveying the complexity of the situation and the rationale for additional information and support for workers is to provide an example of overtime pay calculation for an aide working in one of the New York City boroughs:

The aide's base rate is \$10.00 an hour as required by the Wage Parity Law. Now that she is covered by the Fair Labor Standards Act, she receives the state's minimum wage of \$9.00 for travel time between clients. She works 40 hours taking care of clients in a workweek and has 5 hours of travel time during the week. Her calculated regular rate of pay is \$445.00. However, when divided by the 45 hours of work and travel combined, her average rate becomes \$9.89 which is the rate she will be paid for the 5 hours of overtime, bringing her total to \$469.73.

On January 1, 2017, when the first step in the increase in the state minimum wage takes place, bringing the minimum wage in New York City to \$11.00 for employers with at least 11 employees, travel time will be paid at the same rate as regular time worked which will simplify the computation somewhat. However, consider the fact that many aides work cases in the New York City boroughs as well as Westchester or Long Island where the minimum wage rates will be different as these workers cross county lines.

There are numerous situations that impact home care worker wages as a result of state and federal requirements. For example, aides must attend 6 or 12 hours of in-services¹ annually and must have physicals and competency tests. Travel to these required events must be paid, as must travel to disciplinary meetings. “Wait time” and “On Call” time are compensable. And should the aide work the night shift for a client who needs round-the-clock care, she is entitled to be paid for every hour if she does not receive at least 5 hours of uninterrupted sleep.

The creation of the Office of Labor Standards was a very important step in advocacy for all workers in New York City. A Division of Paid Care can focus the attention on hourly workers in direct care and help workers and their employers understand and receive the wages and benefits they have earned.

Finally, PHI wishes to thank the Council sponsors of the resolution that calls for an expansion of the child care tax credit. In June of 2014, PHI in concert with Wider Opportunities for Women, published a study of the impact of Wage Parity on eligibility for public benefits such as the Child Care Tax Credit, the Earned Income Tax Credit, Housing Choice Vouchers, Supplemental Nutrition Assistance, WIC and health insurance. Access to public benefits contributes to a modicum of financial security and is very important to low wage workers. In the case of home care workers, reliance on benefits is essential in many cases as home care hours are often irregular as clients are hospitalized or change managed care plans. In fact, PHI has learned from several large employers and consumer advocates that most aides are working on average 30 hours and many now work for two different employers in order to piece together sufficient income.

PHI appreciates the leadership and consideration that has been shown by the New York City Council for family caregivers and direct care workers, two very important and large groups of people who take care of others in need. Your recognition of their value, as evidenced by the proposed legislation, makes this City a model for others and will go a long way towards helping its citizens age safely in their communities.

¹ Personal care aides, often referred to as Home Attendants in New York City, are required to complete 6 hours of in-service training on an annual basis, and Home Health Aides are required to complete 12 hours of in-service training on an annual basis.