Testimony of the
Home Care Association of New York State
To The Joint Legislative Budget Hearing on
Health & Medicaid

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Al Cardillo
President & CEO

Introduction and Overview

Thank you, Committee Chairs and Honorable Members, for the opportunity to testify in today's joint legislative hearing on the 2024-25 State Health and Medicaid Budget.

I'm Al Cardillo, President and CEO of the Home Care Association of New York State (HCA). HCA is a nonprofit, statewide association whose mission is "to promote and enhance the quality and accessibility of health care and support at home."

HCA is comprised of health care providers, health systems, health plans, practitioners and other organizations that are federally and/or state licensed to provide health care at home, including: certified home health agencies; licensed home care services agencies; managed long term care plans; hospices; Consumer Directed Personal Assistance Programs and fiscal Intermediaries; Long Term Home Health Care Programs; home and community based waiver programs; and other allied community and provider support services.

Budget Analysis and Recommendations

As the Executive budget has been released less than a week, our analyses are continuing, and our testimony today is based the preliminary information available to date. However, we greatly appreciate this timely opportunity to offer comment based on what we can garner as of this hearing.

The Executive's budget contains proposals of high-impact and enormous concern to the home care community. In addition to what it contains, this budget lacks the critical supports needed to address, head-on, the crises in the health care system, including in home care, hospitals, nursing homes, and across sectors. We urge the Legislature to work with the Executive to include this essential support.

While there are vast areas, both in and omitted from, this budget that have major implications for the home care sector on which we plan to comment, for purposes of scale, we will target this document to selected budget items only, and provide you with supplemental analysis and Article VII language on additional areas we believe are vital to address.

As such, this document will focus on two main categories of information:

- The need to add supportive provisions to this budget to address home health services urgency for medically needy persons across the health, age and geographic spectrum; and
- Those items of utmost concern within the Executive's proposal that we urge you to reject or significantly modify to avoid detrimental impact.

I. Urgently Need Support in Home Health

The home care community recognizes that, for the second-straight year, the Executive budget fails to recognize individuals requiring skilled services at home met by home health agencies – services that are vital for complex conditions, essential to the broader health system, inherently cost-effective, and delivered in the most patient-preferred setting.

Patients are dependent upon on Certified Home Health Agencies (CHHAs) for skilled and therapeutic care needs provided for in the home. Hospitals, physicians, health plans, and other core parts of the health system are likewise dependent on CHHA access and services for their role in enabling the broader system to function. In addition to a distinct role CHHAs play in direct patient care, CHHAs have a comprehensive community and patient care mission that is federally, state, and systemically defined.

New York State's CHHAs are in dire need of support. Last year, CHHA home health was one of the only sectors receiving no funding help in the state budget to support services and community need, while nearly all others were provided essential rate increases and cost of

living adjustments. While we are currently still conducting the fiscal analyses for this sector for this year's budget cycle, data from our 2023 fiscal studies shows that:

An estimated 75% had negative operating margins in 2021[2].

21.68% was the average negative operating margin of CHHAs that completed the survey[2].

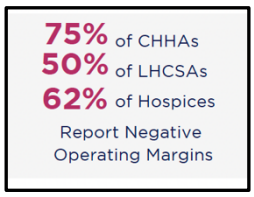
Approximately 428,548 patients annually are served by CHHAs in New York[3].

CHHAs have not received a rate trend factor in over 12 years, nor the base adjustments required by statute to address the increasingly complex and intensive population these agencies are asked to serve. With more and more advanced procedures, surgeries, and medical management being performed with minimal or no hospital stays, the acuity of patients being provided these services in the community is soaring.

Nursing staff shortages are especially urgent in home care, as home care nurses not only provide the direct care, but are the overseers and managers. On average, one nurse manages about 25 home health cases. Cases cannot be admitted or maintained in home care without the nurse. **Therefore, every vacant nurse position in home care represents 25 times that number in patients not able to access these needed services.** Special nurse training for home care takes 6- 9 months, and longer.

The past decade or so has seen the vast majority of counties in the state relinquish their publicly sponsored home health agencies and long term home health care programs, and hospital and community based agencies are also increasingly shuttering their doors or consolidating. In the past several months alone, we have witnessed longstanding, high quality, and innovative, home health agencies closing their doors, and others are in the process of closing today.

As a partial solution for this budget, HCA supports legislation introduced by Assemblywoman Paulin (A.7568) that would provide dire funding to home care through a program in the public health law created specifically for CHHAs to help meet community home health need. The legislation aligns the purposes of this program to current and trending community priority needs (care of the high-need/complex patients, care of the underserved, health critical workforce capacity and professional/personal/occupational support, and other), and along with home health agencies, includes hospices and licensed home care services agencies in these priorities. **HCA urges the Senate and Assembly to include and fund this Legislation in the Health and Mental Hygiene Article VII bill.**

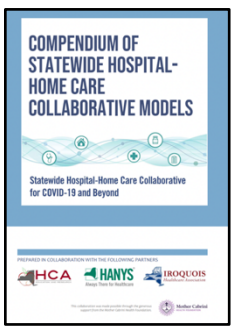


II. Items in Executive Budget of Concern – For Rejection/Review/Modification

• Hospital Care at Home – Exempting Hospitals from Home Care Licensure and Operating Standards – and Amendments to Hospital-Home Care-Collaboration Program

HCA and state and regional hospital associations have been proudly and extensively working together, and with major philanthropic grant support, to promote hospital-home care-physician collaboration models and services (https://hca-nys.org/statewide-hospital-home-care-collaborative/). These collaboration programs promote coordination and continuity care, promote improved patient outcomes and quality of care, improve health system functioning, optimize health care resources, and promote cost-savings. These models have shown transformative potential in health care.

All of these models and services work as partnerships between expert hospital, home care, physicians and other core providers, who laud their working relationships and mutual work. https://hca-nys.org/wp-content/uploads/2023/01/COMPENDIUM-OF-STATEWIDE-HOSPITAL-HOME-CARE-COLLABORATIVE-MODELS.pdf



None of these models or programs has required hospitals to "become" home care providers (as the Executive is proposing in the budget), nor home care providers to "become" hospitals, nor physicians to "become" either. They function as a true collaborative of partners.

HCA is extremely concern over this Executive's proposal to authorize hospitals or others to act as home care providers, circumventing state licensure requirements and standards and, without modification, STRONGLY OPPOSES AND URGES THE LEGISLATURE TO REJECT it. This proposal would circumvent licensure and standards either through the Executive's proposed amendments to the home care licensure statute (public health law article 36) or through the proposed amendments to the Hospital-Home Care-Physician Collaboration Program (public health law section 2805-x). The Executive proposal not only ignores the success and breadth of the existing programs, it violates the underpinnings for both NYS home care licensure (intended for uniformed standards and regulation of in-home care services) as well as violating the core foundation of the Hospital-Home Care-Physician Collaboration law.

HCA working with home care providers, hospital and physician partners, conceptualized, wrote and worked with the Legislature to adopt the Hospital-Home Care-Physician Collaboration Program law (public health law section 2805-x) over 2013-15. We have worked continuously since its adoption to nurture the development of collaboration efforts (as described above and in the linked resources). We are currently working with hospital and physician partners in multiple regions of the state, providing substantial philanthropic funding which we have worked to obtain and disburse to these partners to support such collaborative programing. We have shared our efforts and the achievements of the providers with the Executive, DOH and the Legislature. The program offers transformative potential for the delivery of health care.

Neither DOH nor any member of the Executive discussed with HCA any of the changes proposed in this budget to article 36 or to 2805-x, which we feel, as proposed, undermines the foundation of state home care licensure and standards (article 36) and the Hospital-Home Care-Physician Collaboration Law (2806-x). HCA urges the Legislature to REJECT these provisions as proposed and to work with HCA and partners to modify the proposal to support expansion of collaboration efforts, while removing language that detrimental to the entire effort.

- **Elimination of Wage Parity for the Consumer Directed Personal Assistance Program and Fiscal Intermediaries.**

The Executive Budget proposes to discontinue Wage Parity non-cash benefits for personal assistants (PAs) within the Consumer Directed Personal Assistance Program ("CDPAP") operating in New York City, Long Island and Westchester starting October 1, 2024. This would return the minimum wage for consumer directed PAs to the amount required under the State's general minimum wage law. The elimination of non-cash benefits ($2.54per hour in NYC and $1.67 in Long Island and Westchester) would reduce their current hourly total wages to$18.55. The savings attributed to this change alone is $200.4 million in state fiscal year 2025 and $400.8 million in fiscal year 2026.

The purported "savings" is essentially a massive cut to workers, FIs, providers, and health plans. It is a shift from state-supported funding of workers, to an unfunded provider/employer expense which they have no means recovering. The 2023-24 State Budget adopted a reduction in wage parity, which HCA, Fiscal Intermediaries, and advocates argued would effectively manifest as a reimbursement cut for benefits that the state had mandated,

and were now backing away from, and that in the "real world" of "real people" and "real jobs," once mandated and given to workers as benefits, they are not just shut off.

The Executive has provided no rationale for these cuts nor evidence of how the funds and benefits associated with wage parity would be bridged for the workers and the FIs. HCA urges the Legislature to reject this regressive proposal as the details and impact assessments are further awaited.

- **Executive's Managed Care Proposals – RFP/Procurement, Elimination of Funding, Compliance and New Fines**

HCA represents managed long term care plans (MLTCs) serving all regions of the state. The Executive budget proposes to create a Request for Proposals (RFP) process to conduct a procurement for all managed care plans and MLTCs in the state. The proposal would allow continued contracting with only those plans that meet departmental criteria. The proposal grants unilateral authority within the DOH to pick and choose.

With the advent of the Medicaid Redesign Team reforms, nearly all Medicaid recipients are now enrolled in a managed care plan. Services under the plans are delivered under contract with providers that form the plan's service network.

HCA supports strong standards for quality health plans and plan operation. We support the same for the provider networks. However, the level of disruption represented by the Executive's procurement proposal as the means to higher standards, and the potential dislocation of coverage, of patients' familiar "plans," providers and workers, is extreme, harmful and especially unjustified as the health system continues to writhe in crisis.

Last year, the Legislature rejected a similar procurement proposal and instead adopted standards and milestones for health plans in New York. (Note that a similar

unilateral RFP/procurement initiative for DOH to "pick and select" a subset of FIs for CDPAP services has led to legal action which has still tied up the Department and the FI program. This type of RFP intervention to cut programs is not an appropriate model.) HCA urges the Legislature to again reject the Executive's procurement proposal and work with health plan representatives and associations on practical, effective and nondisruptive approaches to ensuring quality health plan operations and care in the state.

Related Executive proposals impacting managed care and managed long term care include elimination of the one-percent Medicaid increase, new fines for compliance variation with the state's extensive (and ever-revising) model contact requirements, and new requirements and sanctions related to Electronic Visit Verification (EVV) requirements for in-home services provided under plans.

HCA urges the Legislature to reject the elimination of the one-percent managed care plan rate increase which will impact plans, providers, workers and services, and to sustain this rate support. This is regressive with actions to support the workforce as well as quality and health care performance activities of plans and providers.

With regard to the proposed fines and sanctions, HCA is very concerned with the parameters being proposed for these sanctions, and stresses the need to first examine the basic challenges associated with plan/provider compliance effort related to both the model contract and the health plan/provider execution of the EVV. As submitted, the Executive's proposals place plans and providers in a highly vulnerable position of fines, audits, disputable recoveries by state agents, and increased administrative layers and costs that are already way-excessive in the current system and detract for direct care workforce and workforce support. Let there be no mistake, HCA is a huge proponent of compliance and quality and

works closely with DOH, the OMIG, providers and plans in this regard. However, proposals to further improve and advance quality and compliance must be effective, practical, and fair.

- **Emergency Medical Services (EMS) Provisions**

The EMS system is vital not only in direct response to emergency calls and intervention, but these services are interrelated to service sectors across the continuum.

Currently, HCA, the Iroquois Healthcare Association, IPRO, and hospital, home care, physician, EMS, and other community organizations are partnering in projects in 6 regions of NYS that we are also funding with philanthropy grants to create *Collaborative Models of Community Medicine and Paramedicine* https://hca-nys.org/collaborative-models-of-community-medicine-and-paramedicine/. These models are in varied stages of service and expansion, and the work of these models is consistent with the goals of the Executive's proposals in this budget.

Our models are distinct, not only in how they are funded, but in that they are developed and operated as community-centric models. They are "built" from grassroots up, and developed with goals that are responsive to local community needs assessment, local community design, and the collaboration of core partners, including the hospital(s), home care provider(s), EMS, physicians, and other core entities. This approach is **key to success, effectiveness, community support, and sustainability.** These models could greatly benefit from elements of the Executive's EMS proposal, and we look forward to working with the Legislature to help shape the enabling budget language.

However, we are concerned about some aspects of Executive's proposal that appear to provide expanded authority and programing in EMS without connection with core partners. Such coordination is essential to avoiding fragmentation of an already challenged health

system. Thus, careful review and shaping of the Executive's proposed EMS "scope" changes to ensure consistency and clarity both within EMS, and between EMS and other licensed providers, is important. We are also concerned regarding mandates on EMS providers and counties that accompany the Executive proposal. These appear to risk burdens on EMS providers and counties that could impair the very services and advancements sought. These new/added requirements the Executive proposes on EMS organizations need careful scrutiny and vetting with the EMS community and provider partners prior to budget action.

With this said, HCA appreciates and commends the Department's efforts to advance and support EMS services and capabilities across New York State, and looks forward to working with the Legislature and Executive both within and for implementation of this budget as it relates to these services.

- **Workforce**

HCA appreciates and supports the Executive's efforts to address some of the multifaceted areas essential to the current and future health workforce needs. We recognize that this the current workforce challenge is a structural issue in the system, and will take concentrated, prioritized, and well-resource efforts at all levels to ensure a health workforce that meets our society's needs.

While supportive of many of the Executive's workforce proposals, these need greater examination prior to adoption and must be responsible to home care and all health sectors. Overall, HCA continues to be greatly concerned with the lack of budget recognition and support for home care nurses and licensed professionals, and while we acknowledge and appreciate the 2022 investments to increase compensation for home health aides and personal care aides, these investments continue to fall far short of the need, in some respects have become

unfunded wage mandates, and are ironically being eroded with the millions of long term care cuts presented in this year's Executive budget.

HCA will be providing Article VII language and further input related to the Executive's workforce proposals, but **urges that this budget ensure full support for the continued, underlying, and adequate funding the $2.00 and $1.00 phased-in increases for home health aide and personal care worker wages that were adopted in the 2022-23 budget, and that this budget include priority funding for nurse and licensed professional recruitment and entrance into home care.** As previously noted in this testimony, the need for home health workforce support is urgent, particularly in home care nursing and has implications for entire health delivery system. Assembly 7568 (Paulin), which HCA requests be included in the Article VII, would be a critical advancement, and HCA will also be following up with additional language for further workforce development for the home care sector.

• Additional Areas

HCA will be supplementing this testimony with perspectives and recommendations relating to additional areas of Executive's budget proposals. These include prenatal care and maternal health, mental health services, direct support professionals in in-home developmental disabilities services settings, COVID-19 leave, and other. HCA will also ask that the Legislature address the newly approved 1115 federal Medicaid waiver to ensure parameters for equitable participation and funding (unlike the prior, heavily slanted DSRIP waiver). HCA will also seek the essential inclusion in the Article VII of the "New York Home Care *First* Act," A.4583-A Paulin / S.2931-A Rivera.

Concluding Remarks

HCA thanks the chairs and all committee members for this opportunity to offer our comments and proposals on the 2024-25 State Budget. HCA looks forward to working you and with all members of the Legislature and Executive to shape a responsive budget for the home and community based services sector, the health system overall, and for the people of this state.

I and the team at HCA are pleased to answer any questions and to provide any additional information in support of our testimony, as well as in support the state budget progression overall.

I can be reached at acardillo@hcanys.org

Thank you.