



September 23, 2008

Ms. Terryl Brown Clemons
Acting Counsel to the Governor
Executive Chamber – State Capitol
Albany, NY 12224

Re: A.11468/S.8449 Statewide Registry of Certified Home Health Aides and Personal Care Aides

Dear Ms. Clemons:

On behalf of the Home Care Association of New York State (HCA), a statewide association representing New York State's home care community, I write to express support for the above-referenced legislation, which has passed both Houses of the Legislature and has been delivered for action by Governor Paterson.

HCA's membership is comprised of more than 400 home care providers and affiliated members dedicated to the provision of high quality home care services. HCA's members include certified home health agencies, licensed home care services agencies, long-term home health care programs, managed long term care programs and hospices.

Our membership is committed to the establishment of a statewide registry of home health aides and personal care aides and has been working with allied state health care organizations for the past year on legislation to create a statewide registry of home health aides and personal care aides. We have advocated legislation to mend critical gaps that exist in the state Health and Education Departments' home health aide and personal care aide training and certification structure, and to ensure a more effective process on behalf of providers, workers and patients.

HCA supports the above-referenced legislation because it advances the aforementioned goals and purposes for which we have advocated.

This initiative will: direct the State Department of Health to establish the registry; consolidate information on state Health and Education Department approved training programs into one accessible site; consolidate the names of aides trained by approved training programs; and provide updated information to enable providers to verify aide credentials, employment background and outcome of the state's criminal background check on the individual. The legislation will also ensure that training programs certify the verification of the trainee's identity and his or her successful completion of the training program.

If implemented successfully by the State Department of Health, this legislation will go far to assure that home care agencies have one central location to access information regarding the training status of aides they seek to employ. This will mitigate a significant challenge that currently exists for home care agencies: access to up-to-date information regarding the training programs, and validation of an aide's credentials for employment. To date, providers have had to rely on information directly from training programs, as well as from state Health and Education Department lists of approved programs. This structure has forced providers and patients to rely on training program lists that the state has not kept up to date. The present structure also lacks a guaranteed method of verifying the successful completion of these programs by trainees.

The weaknesses in the current structure of the state system have unfairly made providers vulnerable to state penalties when providers have in good faith relied on the state's information and methods. It is essential that this legislation put into place a system that will protect providers, patients and workers.

Because the problem and solution addressed by this legislation are rooted in the inadequacies in state oversight and public protection, a threshold provision for HCA's support of the legislation is the requirement contained in the bill that "no charges shall be imposed on any person or entity for any costs related to the registry." HCA appreciates the recognition by the State Attorney General, the Senate and the Assembly that the cost of the registry not be borne by home care agencies, workers or patients.

During the discussion and debate about the creation of a state registry that took place in the months leading up to the Legislature's passage of the bill, HCA advocated strenuously for the inclusion of confidentiality protections related to personal information of the home care personnel listed in the registry. HCA urges that the Department of Health, as it implements the legislation, take steps to assure the protection of additional personal information not specifically outlined in the bill. In addition, in an age of identity theft and the misuse of private information, HCA urges that the Department take significant steps to assure the security of the personal information listed in the registry, and that it limit access to this information for the express purposes intended.

HCA also supports the provision in the legislation that calls for a transition period, which requires the Department of Health to "provide reasonable and appropriate timetables, notices, and phase-in mechanisms for applying various provisions" of the registry law. Prior to the bill's passage, HCA consistently communicated the need for a realistic, appropriate transition period to assure that the registry only become operational upon the Health Department's determination that the registry is fully functional and accessible statewide, and that it will not adversely impact the employment or assignment of aides. Otherwise, rather than assist agencies in their hiring of trained, quality aides, the registry would instead hamper and exacerbate the already serious shortage of home care personnel. HCA strongly advocates that, in its implementation of the registry, the Department utilize the transition language in the bill to the fullest extent.

Finally, while HCA supports the implementation of the above-referenced legislation, our members have additional outstanding issues related to the aide registry that need to be addressed in future legislation or administrative action. Among these concerns is the need for liability or affirmative defense protections for providers who follow all state requirements, including reliance on registry information, for the verification of aide credentials. If providers are expected and required to rely upon the registry, then the state must stand by this system by offering these protections for providers who abide by the state's requirements. HCA also believes that additional enhancements to a state registry could and should be implemented by the Department. Such enhancements include: the development of a unique identifier used to track each aide listed in the registry; access to a PDF copy of the aide's training certificate; and other improvements that would strengthen a state registry system.

HCA looks forward to working with the Governor's Office and the staff of the Department of Health on these and other implementation issues. We believe that it will be critically important for HCA and our members to be involved in the registry's creation, to ensure that providers are closely aligned with state policymakers in the successful implementation of the state home care registry.

HCA appreciates the opportunity to provide comment on the above-referenced legislation and urges the Governor's full support for the enactment of this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Cunningham". The signature is written in dark ink and is positioned above the printed name and title.

Joanne Cunningham
President