



MEMORANDUM OF SUPPORT

Statewide Registry of Certified Home Health Aides and Personal Care Aides (A.11468 Gottfried/S.8449 Hannon, Attorney General's Program Bill)

The Home Care Association of New York State (HCA) supports the establishment of a statewide registry of home health aides and personal care aides. Such a mechanism will mend critical gaps in the state Health and Education Departments' home health aide and personal care aide training and certification structure. The improved state structure will better equip providers and patients with reliable, consistent and timely information on state-approved training programs and individuals credentialed through those programs, assist workers in the verification of their credentials, and further support the home care community's efforts to ensure the best possible patient care.

This legislation will direct the 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.

A critical component of the legislation is the requirement that the state promptly update the registry so that the most current, reliable information is maintained and available for providers, workers and patients. 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. This weakness of the state's system has unfairly made providers vulnerable to state penalties when providers have in good faith relied on the state's information and methods. Such vulnerability has occurred in circumstances when, despite the provider's due diligence and reliance on state-directed procedures and information, a training program or aide's credentials have subsequently turned out questionable or, as in last year's investigation of several training sites, falsified. HCA hopes that the legislation will now duly protect providers, patients and workers.

Another important element of the legislation is the provision 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. HCA urged state leaders to ensure that the registry begin operation only upon a determination by the Health Department that it is fully operational and readily accessible statewide and will not adversely impact the employment or assignment of aides. Otherwise, the

registry will exacerbate the already serious shortage of home care personnel, further impairing patient access to home care services. HCA believes that it is imperative that the transition language of the bill be applied in this fashion in the implementation process.

HCA fully supports the provision in the legislation that “no charges shall be imposed on any person or entity for any costs related to the registry.” The problem and solution addressed by the legislation are rooted in the inadequacies in state oversight and public protection; it is thus appropriate that the cost of the registry be borne as a state administrative expense and not borne by workers or providers.

HCA strongly supports confidentiality provisions beginning with those that are explicit within the legislation, so that personal information (date of birth, home address) on home care personnel be protected from disclosure except as is necessary for use by employing agencies or by the workers themselves. HCA urges even further protections in the implementation process so that any additional information not explicitly protected in the bill but which the Department may administratively add to the registry content be protected in a similar fashion. HCA urges additional protections in implementing the bill language that requires the Department to “include security mechanisms in the registry.” In an age of identify theft and other intrusions using an individual’s personal information, it would be highly unfair and inappropriate to expose our workers’ through unjustified access to the registry information.

Last fall, HCA joined with allied health care associations to develop legislation for a home care aide registry and additional reforms in the system. Among the additional reforms for which we advocated, but which are not articulated in this legislation are: a) liability or affirmative defense protections for providers who follow all state requirements, including reliance on registry information, for the verification of aide credentials; b) the development of a unique identifier to track each issued training certificate; c) access to a PDF copy of the certificate through the registry; and d) other recommendations. While these recommendations are not part of this final legislative language, the bill contains provisions that reflect elements of our prior proposal, and would also result in important strides toward improving the state’s structure of authenticating home care aide credentials. HCA urges that our recommendations not explicitly included in the bill be incorporated in the implementing regulations and implementation process.

The implementation process will be crucial to the successful operation of the registry. The legislation does not provide detail with respect to various aspects of the registry, and operation will require careful consideration and action. The registry must be implemented in a manner which mitigates costs, administrative burden and any adverse effect on the employment and assignment of personnel, which is essential to avoid negative consequences for patient care. HCA looks forward to working with the Legislature, Attorney General and Governor on implementing this new system so that it meets the practical needs of providers, protects workers, and, above all, serves the interests of our patients.

HCA appreciates the openness of state leaders to our input and, for the aforementioned reasons, supports the enactment of this legislation.