PUBLIC JUSTICE CENTER
Building a Just Society

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HB189: Maryland Medical Assistance Program – Personal Care Aides - Wage Reports

Hearing of the Senate Finance Committee, March 20, 2024

Position: FAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. **The PJC supports HB189, which would help implement the recommendations of Maryland's Commission to Study the Health Care Workforce Crisis by getting critical home care job-quality data to policymakers.**

Summary: HB189 provides that for personal care aides who work for home care agencies (called "residential service agencies" – RSAs – by the Health Code) under certain Medicaid programs, RSAs will report to the state workers' average, highest, and lowest pay rates. Given that most home care in Maryland is funded by Medicaid, this data is necessary for policymakers to help solve the home care workforce crisis. The amended bill before you—which passed the senate as SB371—reflects detailed discussion and compromise between all key stakeholders.

HB189 reflects the findings of the just-released final report of Maryland's *Commission to Study the Health Care Workforce Crisis*[1] and would help advance several of the report's recommendations.

- The Commission's report is a result of visionary 2022 legislation sponsored and championed by Senate Finance Chair Beidle and then-Delegate, now-Senator Kelly, SB440/HB625, which passed with unanimous support. Relevant findings and recommendations from the report are attached to this testimony, with key parts highlighted.
- The report begins its "findings" section by noting that "more complete and accurate data is required to fully examine the workforce shortages and to develop." For home care specifically, while the report recognizes that home care jobs are "usually low paying," the report also finds that "those who provide in-home care play a significant role in the healthcare system but data about them is limited."
- Most home care in Maryland is funded by Medicaid. By getting basic wage data on the Medicaid-funded home care workforce to the State of Maryland and requiring regular analysis of the costs of providing Medicaid-funded home care, HB189 would advance two of the report's four recommendations: (1) helping build the data necessary for a "state healthcare workforce data center" and (2) supporting a "Task Force to study the home healthcare workforce shortages in Maryland."

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[1] *See* Commission to Study the Health Care Workforce Crisis, Final Report, Dec. 31, 2023, https://health.maryland.gov/docs/SB%20440%20Ch.%20708%20(2022)%20%E2%80%93%202023%20Final%20Report%20%E2%80%93%20Commission%20to%20Study%20the%20Heal.pdf at p. 14.

Maryland lacks data on home care workers' pay rates—information policymakers need to solve the home care workforce crisis.

- Consumers and employers report home care workforce shortages and high turnover. But although most of the workforce is funded by Medicaid, there is no hard data on workers' pay rates. As a result, policymakers lack the data they need to improve home care jobs and solve the workforce crisis.
- This bill fixes the problem by requiring that home care agencies that receive Medicaid reimbursement report to the Maryland Department of Labor the average, highest, and lowest pay rates they pay home care workers. With this information, Maryland can take action to ensure that workers receive competitive wages, helping attract and retain the workforce Maryland needs.
- The bill applies *only* to work funded by Medicaid programs administered under the Office of Long Term Services and Supports. It does not apply to programs administered under the Developmental Disabilities Administration. Nor does it apply to the private sector.

The amended bill before you—which passed the senate as SB371—reflects detailed discussion and has the agreement of all key stakeholders.

- As introduced, the bill originally called for the Maryland Department of Health to do regular analyses of Medicaid reimbursement rates every two years. The Department asked that these provisions be removed because a new CMS rule expected soon will require very similar analyses. Accordingly, those provisions were stricken. In their place, there is uncodified language requiring the Department to report to the Senate Finance Committee and the House Health and Government Operations Committee 180 days following the rule's release concerning progress on operationalizing the rule.
- The Department of Health has actively and collaboratively engaged with stakeholders on this bill. The compromise reflected in the amended bill was reached through detailed discussions with the Public Justice Center, the Maryland National Capital Homecare Association, and others.

For these reasons, the PJC **SUPPORTS HB189** and urges a **FAVORABLE** report. Should you have any questions, please call David Rodwin at 410-625-9409 ext. 249.

COMMISSION TO STUDY THE HEALTH CARE WORKFORCE CRISIS

FINAL REPORT 2022/2023

PREPARED FOR THE MARYLAND GENERAL ASSEMBLY

IN ACCORDANCE WITH SB440/CH0708 (2022)

<table>
<tr><td>10/14/22
11:00AM-12:00PM</td><td>The Maryland Hospital Association and a representative from GlobalData gave a presentation about the Maryland Nursing Workforce Study that included projections for Maryland’s nursing workforce through 2035 and subsequent recommendations. Workgroups met briefly.</td></tr>
<tr><td>10/28/22
11:00AM-12:00PM</td><td>A representative from the Maryland Regional Direct Services Collaborative gave a presentation about their forthcoming report regarding the direct service workforce in Baltimore City. Workgroup leads provided an update about the status of data collection and review.</td></tr>
<tr><td colspan="2">The Data Advisory Group did not meet in the month of November due to multiple state holidays. Members were encouraged to use the month to collect and submit data to workgroup leads in preparation for a presentation in December.</td></tr>
<tr><td>12/09/22
11:00AM-12:00PM</td><td>Workgroup leads gave presentations about health care workforce shortages in their respective setting(s).</td></tr>
<tr><td>01/20/23
11:00AM-12:15PM</td><td>Dr. Yetty Shobo, Director of Virginia Healthcare Workforce Data Center, gave a presentation about the creation of the Data Center and provided an overview of their data dashboard, including how they have been used to inform policy recommendations.</td></tr>
<tr><td>02/17/23
1:30PM-2:30PM</td><td>Gene Ransom, CEO of MedChi, gave the presentation “Payment Issues in Maryland for Physicians” that included data gleaned from MedChi’s 2022 salary survey.</td></tr>
<tr><td>04/21/23
1:30PM-2:30PM</td><td>Dr. Ann Kellogg and Michele Calderon of the MLDS delivered the results of a data request submitted by Workforce Data Advisory Group to examine the labor market outcomes of students who graduated with an associate degree or certificate in healthcare-related majors from Maryland Community Colleges.</td></tr>
<tr><td>05/25/23
2:30PM-3:30PM</td><td>Sara Seitz, Director of the State Office of Rural Health, gave the presentation “Preparing for a Maryland Healthcare Workforce Data Clearinghouse.”</td></tr>
<tr><td>07/21/23
1:30PM-2:30PM</td><td>Dr. Ann Kellogg provided an update to the MLDS data request made by the Workforce Data Advisory Group. Dr. Kellogg’s presentation focused on wage visibility for the same group of students who graduated with an associate degree or certificate from Maryland Community Colleges at three, five-, and ten-years post-graduation.</td></tr>
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The Data Advisory Group concluded regular meetings in July 2023. The Data Advisory Group Chair continued to communicate with members and stakeholders via email throughout the duration of the Commission’s operation.

C. FINDINGS

It is challenging to find current, publicly available data on the healthcare workforce shortages in Maryland. Data sources are often siloed and do not account for the interconnectedness of the allied healthcare system. When asked to provide data that detailed workforce shortages, many Commission

members responded that they could only provide data that, when taken collectively, could infer shortages for a particular occupation. Despite this, the Workforce Data Advisory Group was able to make some progress in determining the extent of healthcare workforce shortages across the state. More complete and accurate data is required to fully examine the workforce shortages and to develop potential solutions.

1. Maryland is faring worse in growing its healthcare workforce compared to other states.

Maryland experienced slower growth in healthcare employment compared to other states in the region. According to the Bureau of Labor Statistics Quarterly Census of Employment and Wages, 2013-2022, Maryland's healthcare workforce grew at a rate of 4.6%. This represents a full percentage point lower than all other mid-Atlantic states combined (excluding Maryland) which grew at 5.8%. Maryland's healthcare workforce grew significantly slower than the national average of 11.5%.

Maryland is not restoring its pre-pandemic healthcare workforce at the same rate as other states. While most states in the mid-Atlantic region have not fully returned to their 2019 level of employment in the healthcare sector, Maryland is tied with Pennsylvania as having the second-worst recovery rate post-pandemic at 4.3%. This is also lower compared to the rest of the region and the nation, with a recovery rate of -2.2 % and -0.1%, respectively. Virginia is the only state in the mid-Atlantic that has reached, and exceeded, its 2019 level of employment, at 14% growth.

Prior to the pandemic, many critical healthcare occupations were already experiencing, or projected to experience, a workforce shortage. A 2017 report by the U.S. Department of Health and Human Services showed a gap existed between the supply of nurses and projected need, citing Maryland among the top six states facing a deficit in Licensed Practical Nurses (LPNs) by 2030.[1] A nursing workforce study conducted by the Maryland Hospital Association similarly found that Registered Nurses (RNs) and LPNs will see a 38%, 50%, and 57% demand in growth in home health, nursing homes, and residential care, respectively, by 2035.[2]

Behavioral healthcare providers are also seeing distinct shortages. A 2019 survey of the behavioral health workforce conducted by Maryland's Behavioral Health Administration found that respondents experienced turnover in occupations such as Social Workers, Case/Care Managers, and Rehabilitation Specialists at rates of 25-50%.[3]

2. Health care workforce shortages are most pronounced in rural parts of the state.

A recent report produced by the Maryland Loan Assistance Repayment Program (MLARP) for Nurses and Nursing Support staff found that as of September 30, 2023, there are a total of 76 primary care Health Professional Shortage Areas (HPSAs) in the state, inclusive of 1,748,349 Maryland residents.

[1] https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/data-research/nchwa-hrsa-nursing-report.pdf
[2] https://www.mhaonline.org/docs/default-source/default-document-library/maryland-nurse-workforce-projections-globaldata.pdf
[3] https://health.maryland.gov/bha/Documents/Workforce%20Survey%20Summary%20distribution9.4.20%20(2)%20(2).pdf

All Other	933	$7,320	711	$13,077	304	$12,727	101	$14,371
Two or More	1,181	$6,880	957	$13,841	611	$13,791	282	$16,345
White	20,879	$6,954	19,354	$12,674	15,097	$13,293	7,880	$15,613

Analysis Completed by the Maryland Longitudinal Data System Center, June 2023

4. Uncredentialed healthcare professionals and those who provide in-home care play a significant role in the healthcare system but data about them is limited.

A 2018 PHI National of New York study estimated that there are over 71,000 direct care workers in Maryland.[5] Direct care occupations such as personal care attendants, home health aides, and direct support professionals provide key services that enable many Marylanders to stay in their homes rather than relying on costly care from a hospital or nursing facility. Direct support professionals assist individuals with activities of daily living (ADLs) but do not necessarily provide medical or clinical interventions. ADLs include things such as eating, bathing, and mobility and directly impact a person's ability to live independently and care for themselves.[6]

1199 SEIU United Healthcare Workforces East reports that there are nearly 20,000 direct care workers providing Medicaid-funded personal care throughout the state, roughly 10% of whom provide personal care through two or more Residential Services Agencies. These positions are usually low paying, with workers on the Eastern shore earning $14,600/year and those in the capital region earning nearly $28,000/year. These workers often care for the state's most vulnerable and medically complex residents.

Population projections for Maryland estimate that the number of residents aged 65 or older will increase 33% from 2020 to 2030. Coupled with the slow recovery of Maryland's healthcare workforce, the need for healthcare for this population, including increased demand for opportunities to age in place, will put a strain on the current workforce.

D. RECOMMENDATIONS

The scope and breadth of the issues related to healthcare workforce shortages presented challenges to the creation of recommendations that would be singularly impactful across all healthcare occupations, settings, and populations. It is the intention of the Commission to provide information gathered in the course of its work to help inform sound policy decisions. Specific recommendations submitted by stakeholder organizations regarding certain occupations, settings, and populations can be found in Attachment B.

1. There is a need for a state healthcare workforce data center.

[5] https://www.phinational.org/wp-content/uploads/2018/09/DSWorkforces-Maryland-2018-PHI.pdf

[6] Edemekong PF, Bomgaars DL, Sukumaran S, et al. Activities of Daily Living. [Updated 2023 Jun 26]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2023 Jan-. Available from: https://www.ncbi.nlm.nih.gov/books/NBK470404/

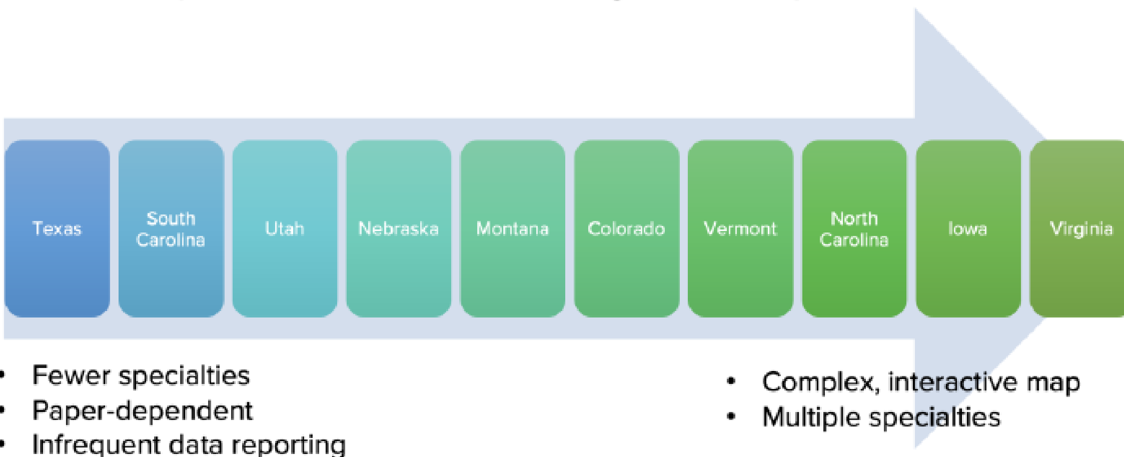
Healthcare workforce data should be collected, analyzed, and managed within a state data center on a consistent basis. Healthcare workforce trends are fluid, a point that was reinforced by the COVID-19 pandemic. One-time collection efforts only provide a point-in-time snapshot of the current landscape and predicted need. While workforce data is collected by federal and state agencies and stakeholder organizations, there are gaps in the data which make it difficult to determine the supply and demand for any given healthcare occupation. For example, data collected by the health occupations boards does not consistently include demographic information, work settings, or work locations. Data collected by stakeholder organizations is limited to their constituency or a particular healthcare setting. Similarly, data provided by programs such as Medicaid or Medicare are specific to certain populations. A healthcare workforce data center is needed to accurately identify current and projected supply and demand for healthcare workforces.

The Primary Care Coalition of Montgomery County, Inc. ("PCC"), via funding from the MDH's State Office of Rural Health, developed a national landscape analysis to inform the creation of a Maryland Statewide Healthcare Workforce Data Clearinghouse that offers recommendations for models, approaches to implementation, and considerations for sustainability. PCC found that several states have developed data clearinghouses that collect, analyze, and disseminate data regarding supply and demand trends, geographic distribution of health care occupations, and demographic information about healthcare professionals. These data clearinghouses vary by size and sophistication but serve as a single source for much of the same information the Commission was charged with analyzing (see Figure 5). Based on the work of PCC, it appears that the Commonwealth of Virginia's model represents the "gold standard" in comparison to other states surveyed. In Virginia, the Health Care Workforce Data Center sits within the Department of Health Professions as part of the Health and Human Services Secretariat.[7]

A healthcare workforce data collection center that is supported by the Maryland Department of Health, Maryland Department of Labor, Maryland Longitudinal Data Systems Center, the health occupations boards, and other key state and federal agencies would provide consistent collection, analysis, and dissemination of data. The regular assessment of workforce supply and demand across Maryland's healthcare professions through a workforce data center would improve data collection and measurement and ensure Maryland has a diverse healthcare workforce.

[7] https://www.dhp.virginia.gov/PublicResources/HealthcareWorkforceDataCenter/

Figure 5- Out of State Data Clearinghouses, Spectrum of Complexities and Features



Source: Primary Care and Rural Health Workgroup, December 2022

2. **Develop a definition of "shortage" specific to Maryland for each identified critical health care occupation.**

Maryland largely relies on federally defined provider ratios or facility-level vacancy rates to determine health care occupation shortages. For instance, HRSA states that for primary medical care, the population to provider ratio must be at least 3,500 to 1 (3,000 to 1 if there are unusually high needs in the community). HRSA's formula for designating HPSAs is limited by the exclusion of advanced care practitioners and specialists and may not adequately portray the need across Maryland. Similarly, vacancy rate determinations are not necessarily standard and do not produce a shortage formula that can be utilized across occupations, settings, patient populations, and specialty.

3. **Efforts to improve healthcare workforce shortages should focus on retention strategies in equal measure to creating entryways into the healthcare workforce.**

Data provided by MLDS shows that healthcare professionals with an associate or bachelor's degree have noticeably decreased wage visibility at five- and ten-years post-graduation. This suggests that although creating accessible and attractive pathways into healthcare should continue, it is equally important to ensure that there are incentives for workforces to stay in the field.

Individuals who continue to work in healthcare for ten or more years also tend to leave hospital settings in favor of outpatient care centers or physicians' offices. Hospitals often serve as the teaching ground for many new healthcare professionals. However, the loss of veteran staff, whether to attrition from the field or to private healthcare settings, means that Maryland's new healthcare professionals are not getting the full benefit of their experience and knowledge. Stakeholder organizations that have participated in the Commission have identified several recommendations for retaining workers such as fully funding loan repayment programs for critical healthcare occupations and ensuring that insurance payments to practitioners are competitive.

4. Create a Task Force to study home healthcare workforce shortages in Maryland.

The home healthcare workforce plays a vital role in the care of Maryland's aging and disabled citizens. Accurate data on this workforce may not be available for several reasons. First, the care is provided outside of traditional settings. Second, many home healthcare workers are not credentialed and, therefore, do not appear in state licensing data. Third, the occupational titles and credentials required for professionals providing care in the home can vary between employers or based on the population they serve (e.g., older adults, individuals with disabilities). For example, an Indeed.com search for "home care" in Maryland yielded results for "caregiver", "personal care attendant", and "direct care professional." Some of the "home care" positions required that the provider be certified as a CNA/GNA, but many did not. The same search also included postings for RNs and LPNs, which are needed in a supervisory capacity for home nursing provided by CNA/GNAs. A task force dedicated to the study of the home health care workforce may help assess the needs of Marylanders who wish to receive quality healthcare in their homes.

IV. EDUCATION AND PATHWAYS ADVISORY GROUP

A. BACKGROUND

The Education and Pathways Advisory Group held its initial meeting in August 2022. In keeping with the charge to the Advisory Group, issues related to education and pathways of the health care workforce were explored. The foci of the Advisory Group included: examining short-term solutions to address immediate needs related to shortages, examining changes needed to enhance incentives for individuals to enter and stay in the health care workforce in the State, examining methods for improving transition of active duty to retired military to the civilian health care workforce, and examining barriers that confront foreign-born health professionals and identifying career and licensure pathways for refugees and immigrants with education, training, and experience from other nations. In addition, in collaboration with the Workforce Data Advisory Group, examining ways to