

HB 544 - Health Facilities - Residential Service Agencies – Reporting Requirement
Health and Government Operations Committee, February 17, 2021

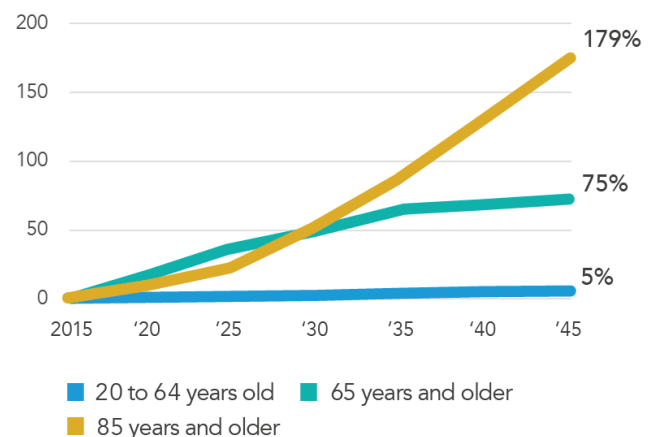
Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project aims to ensure that our state’s low-wage workers receive fair and full payment for their labor, as well as other basic protections on the job. **The PJC supports HB 544 and urges a favorable report because the bill will (1) help inform policymakers responsible for ensuring Maryland has enough personal care aides and (2) ensure Maryland can access new federal funds available only to states that provide data on these workers’ wages and benefits.**

Problem 1: Maryland is facing an increasingly dire shortage of personal care aides (AKA home care workers), hurting older adults and people with disabilities. And even though most of these workers are paid with state Medicaid funds, the state currently has no information about these jobs.

- The past year saw a series of investigations into the home care workforce shortage. On October 7, 2021, Maryland Matters published *Home Care for Older Adults Increased During Covid, but Direct Care Workers Remain Hard to Find*.¹ This followed NPR’s September 28, 2021 investigation *There’s a Shortage of Home Health Aides For The Elderly, And It’s Getting Worse*.² And on July 24, 2021, the New York Times published *For Older Adults, Home Care Has Become Hard to Find*.³
- Demand for home care is increasing as Maryland becomes an older state and more people with disabilities fill Medicaid waiver slots and obtain care in their communities, rather than nursing homes.⁴ Home care can lead to better health outcomes than nursing facilities, where COVID death rates

Figure 2: Projected Population Growth by Age in MD, 2015-2045



¹ <https://www.marylandmatters.org/2021/10/07/home-care-for-older-adults-increased-during-covid-but-direct-care-workers-remain-hard-to-find/>

² <https://www.npr.org/2021/09/28/1031651663/shortage-home-health-aides-elderly>

³ <https://www.nytimes.com/2021/07/24/health/coronavirus-elderly-home-care.html>

⁴ <http://phinational.org/resource/the-direct-services-workforce-in-ltss-in-md-and-dc/>

were higher than anywhere else. A 2018 [study](#) found that Maryland will need nearly 40 percent more care workers over the next ten years.

- But the supply of home care workers is not increasing. Residential Service Agencies (RSAs, the Health Code's term for home care agencies) report very high turnover. Workers are leaving home care for higher paying, less stressful jobs at Chipotle, Wal-Mart, or Royal Farms.
- Maryland's older adults and people with disabilities are already having extreme difficulty finding and keeping home care workers. If more comprehensive action is not taken soon, the shortage – and its consequences for Marylanders who rely on home care – will only worsen.
- Even though Medicaid funds nearly 60% of Maryland's home care, the state has no information about the most basic aspects of these jobs: pay and benefits. Policymakers set Maryland's Medicaid reimbursement rates and determine what conditions the state puts on businesses that receive this reimbursement. But it is very difficult to make informed policy decisions without basic workforce data.

Problem 2: To access likely new federal funding for Medicaid-funded home care, Maryland will be required to provide the federal government with information on home care workers' wages and benefits. But Maryland does not currently have this information.

- Although the federal Build Back Better Act has been delayed, that bill proposed giving states \$150 billion to improve Medicaid home care programs. Public reporting suggests that Senators Manchin and Sinema are in favor of this additional funding, and it is expected that the reconciliation bill that eventually passes will include it.
- However, this funding has strings attached to it. To access the money, states must provide the federal government with data on home care workers' wages and benefits, as well as turnover and vacancy rates. MDH has the data it needs to assess turnover and vacancy, but no Maryland agency has any data on these workers' wages and benefits. Without it, Maryland will lose out on this funding or, at a minimum, be delayed in its ability to access it. The result is that older adults and people with disabilities will continue to suffer from the effects of the home care workforce shortage.

HB 544's Solution: For *Medicaid-funded personal care only*, learn personal care aide job quality by requiring RSAs to report to MDH workers' wage rate and classification as employee or independent contractor.

- HB 544 will simultaneously (1) give state policymakers the information they need to make informed policy decisions to address the home care workforce crisis and (2) ensure that Maryland is positioned to immediately access more than \$1 billion in new federal money for our state's home care programs.
- Wages are the single most important indicator of job quality. While we know that starting pay at Amazon is \$15 per hour, we have no data on wage rates for this state-funded workforce. HB 544 will fix that.
- Further, workers' employment classification determines what benefits they receive. Employees get benefits while independent contractors do not. By asking RSAs to report workers' employment classification, policymakers can learn what benefits personal care aides are receiving.
- RSAs will do this reporting just once a year. And MDH will be responsible for creating the form (paper or electronic) to facilitate the reporting. This is not burdensome, and the benefits to the State of Maryland will be tremendous.
- The sponsor amendments make clear that RSAs do not need to worry about competitors or consumers gaining access to this information. MDH will not be permitted to publish individualized information – it must only publish a report based on aggregated data. RSAs do not have to worry about any proprietary business information being disclosed. This amendment addresses a concern raised by some in the business community.

HB 544 is consistent with state policy that businesses receiving state money should use it transparently.

- Maryland has long sought to ensure that businesses receiving state money use it transparently and create decent jobs, as shown by Maryland’s Prevailing Wage and Living Wage Laws. In the Prevailing and Living Wage contexts, businesses not only pay higher wages but submit biweekly payroll reports showing the precise dollar amount every worker was paid.
- The reporting requirements in the Prevailing Wage and Living Wages Laws is much, much more burdensome than that proposed by HB 544. There, the reporting is every two weeks, and it is not just wage rate and classification but workers’ hours’ worked and actual pay received. HB 544 would provide for reporting just once a year, and could be done simply by checking a box and entering a few numbers.

Job quality of personal care aides is both a *race equity* issue and a *gender equity* issue.

- Historically, care work was often not considered “real work” because it was performed by women, especially women of color. Personal care aides in Maryland are mostly Black women: about 90% are women and about 70% are Black.
- When personal care aides are wrongly classified as independent contractors, it makes it much harder to obtain workers’ compensation—and injury rates are extremely high due to the lifting the job entails. This can cause financial crisis and even homelessness.
- Misclassification also increases workers’ tax burden as they mistakenly file as “self-employed.” In the aggregate, misclassification increases instability for many Black families and deepens the racial wealth gap.
- Low wages have the similar effects: they hurt workers (adding financial stress to an already stressful job), their families (as children are often forced to grow up in poverty) and their communities (which lose out on the economic and social benefits of financially stable neighbors).
- Improving job quality for Maryland’s personal care aides is an issue of race equity and gender equity.

For these reasons, the Public Justice Center **SUPPORTS HB 544** and requests a **FAVORABLE** report.