Testimony to the
New York State Legislative
Joint Hearing on COVID-19

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Introduction and Overview

Thank you Committee Chairs and Honorable Members for inviting HCA's testimony in today's joint hearing on COVID-19.

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 home and community-based services providers and organizations federally- and state-certified, and/or state-licensed, to provide in-home care. These include: 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; allied community and provider support services; practitioners; and other involved individuals.

The COVID-19 pandemic and response policies have ushered in a time like no other. As we all look to reassess, reset and go forward, we especially appreciate the opportunity of this public hearing to review NY's COVID-19 experiences and garner recommendations for strengthening prevention and intervention for the road ahead.

I begin by recognizing and thanking all of the leaders in their unprecedented efforts to assist in the pandemic: The State Legislature; the Governor, Cabinet and state agency teams; the President, Vice-President and Federal Administration; Representatives and Senators of the New York Congressional Delegation; and other local, regional, state and federal officials working tirelessly as part of the COVID-19 Incident Command System.

Our ask is that today's reassessment of NY's state of health, health care and policy in the wake of COVID -19, consider and translate our testimonies into action to help move us all forward.

To be sure there will be a tremendous amount for all to share today. As we are actually still in the COVID-emergency, more uncharted ground is ahead. So, as the pandemic continues, HCA will be continuing our work with you and with all health sectors (hospitals, physicians, public health, long term care facilities) and state officials to fully document a *COVID-19 After-Action Report.* This AAR needs to capture the entire COVID-19 experience, and full complement of recommendations for strengthening the system.

I'll next provide overview of the key areas of my testimony, followed by details for each, and append a concise recap of the recommendations covered.

Key Areas of Testimony

- Home care's pivotal and systemic role in the response to the pandemic.
- Overall recommendation for a New York "Home Care *First*" policy.
- Major areas of challenges experienced, priority needs and recommendations.
    - Essential Personnel Designation
    - PPE Access and Supply
    - Patient Complexity, Patient/Family Fear in the Pandemic
    - Workers and Workforce
    - Agency Services Operations
    - Fiscal Losses and Need for Urgent Relief
    - Data and Information for Situational Awareness
    - Lack of Home Care-Hospice Knowledgeable and Coordinated Incident Command
    - Executive summary of recommendations
- New Opportunities
    - HCA's Statewide Initiatives strengthening the system for COVID and beyond

Home Care's Pivotal and Systemic Role in the Pandemic

Every day, home care and hospice providers serve with a profound scope and impact on the health of New Yorkers and on the overall operability of the health care system.

Every day, home care and hospice providers work miracles for patients and solutions for the health care system.

Every day, home care and hospices respond with individual and family support in a manner and venue unlike any other service.

These pivotal home care and hospice roles have been exponential throughout the pandemic. They have helped sustain the health and the lives of patients, functionality of the health system (mitigating hospital surge, enabling hospital decompression), and provided key support in virtually all spaces of the system.

Workers have made their own needs secondary to their patients' continuity of care, support and safety at home. They transitioned from hospital-to-home the thousands who are post-acute, rehabbing, chronically ill, and dying; those are COVID-positive and the entirety of the home care and hospice population who are virtually all COVID-risk.

A number of individual agencies have been also voluntarily serving as receiving and distribution sites for personal protective equipment and supplies for hundreds of other, fellow agencies in cases where, no formal structure was instituted by state/local incident command to deliver these essentials to the community-based sector.

Staff at all levels have been heroic. As their association, we salute them with profound respect and gratitude. Visit HCA's Home Care Heroes webpage at https://hca-nys.org/category/**home**-care-hero to view directly profound profiles of these individuals.

A New York Policy for *Home Care First*

As a preface to all that follows in this testimony, HCA urges the Legislature and Governor to consider the opportunity whose time has arrived, which is to advance a New York policy for *Home Care First.* This policy would ensure the opportunity for individuals, as medically appropriate and able, to be considered first and optimally for care at home and in community. Referral structures, state program policies and finance provisions should be reset to support this systemic goal. Considering the experiences, patient/family preferences, and beneficial possibilities in the wake of the COVID-19, a New York *Home Care First* policy could be a game-changer in disease management, prevention, patient outcomes, satisfaction and cost-reduction.

Major Challenges, Priority Needs and Recommendations

Home care encountered major and unique challenges throughout the pandemic, beginning with the unique manner and venue in which these services are delivered; namely, in the home and community, inherently distinct from any other sector. The services not only encompass the direct care of the individual, which must be further tailored to each unique home and delivery setting, but also the coordination of services across multiple caregivers and access points, communities and regions. The services must also account for the social determinates of health (food, pharmaceuticals, safety, physical environment, social contact etc.) and all that is critical to the health and sustainability of the individual at home.

Within this home care and hospice venue, where over 800,000 New Yorkers are cared for and supported each year, the next sections of the testimony chronicles major experiences, challenges and priority needs in COVID-19, along with our recommendations for supportive action.

I. Essential Personnel Designation

In 2017, Senator Lanza and Assemblyman Cusick finalized legislation with Governor Cuomo directing local emergency managers to develop procedures with home care and hospice providers for "essential personnel" status and access in emergencies. Despite the statute and the COVID-19 Executive Orders designating "essential status" for health and elder-care personnel, home care and hospice workers encountered obstacles throughout, most urgently being under-recognized in their need for personal protective equipment (PPE).

Recommendation: The Legislature and Governor must ensure that state and local management plans and their procedures abide home care and hospice status as "essential."

II. Personal Protective Equipment Access and Supply

In the case of PPE specifically, from the pandemic's outset, home care and hospice struggled for PPE supplies and status, most often relegated to lower priority. In fact, initially home care and hospice providers were categorically excluded from New York City emergency PPE stockpiles. Following our appeals, the NYC Health Department worked with us to begin allocating some of the NYC PPE supply to home care and hospice, and supply sources across the rest of the state improved their support; but significant gaps persist.

To assist some areas of the state, DOH partnered with the associations to receive and help distribute supplies to providers. In NYC, whose incident command system lacked any structure to distribute PPE to community providers, the City DOH turned to HCA and association partners to forge an ad hoc process for distribution. This process relied on the shoulders of 4-to-5 volunteer home care agencies who made space in their own operating quarters and dedicated their individual staff to receive, stage, sort, package, distribute and

track PPE supplies for all other home care providers in NYC. This has all been done with no financial or external staff support to these voluntary agencies, and been done amidst their own overwhelming COVID care requirements for their patients and workers. Without these heroic volunteers, there would have been no such mechanism, and no publicly-supplied PPE distribution deliverable to agencies and workers.

As PPE is essential for patient safety, worker safety, COVID-and-other infection control, and continuity of care, the aforementioned issues with PPE are serious systemic gaps that must be addressed. Agencies and personnel have managed through their skill, creativity, perseverance and protocol. They have applied PPE conservation, prioritization, mutual sharing, use of telehealth/telephonic service options, and other means of safeguard. But PPE adequacy and access requires a permanent public policy solution for home care and hospice, and ultimately the entire continuum.

Recommendation: HCA urges the Legislature and Administration to adopt policies ensuring home care and hospice priority status for PPE, adequacy of supply and distribution, and permanent structural PPE funding mechanisms.

III. Patient Care Complexity and Patient/Family Fears in the Pandemic

The patient care challenges of COVID-19 have been extensive. They have also been exacerbated by the PPE and "essential personnel" gaps just described.

Agencies have had to meet high complexity/intensity COVID care needs, and implement comprehensive protocols for all facets of service and safety. Agency caregiving, care management and operational procedures have all been intensified and re-tailored in order to address COVID-positive, COVID-suspected and COVID-risk patients. It is important to note that,

ultimately the entire home care and hospice population -- the elderly and all persons with underlying and complex medical conditions -- are among the highest risks for severest COVID morbidity and mortality.

Home care and hospice have stepped in to help prevent patient surge into hospitals, and to assist in rapid and effective hospital discharges ensuring safe transition to care at home. This has also been essential to opening hospital bed capacity for incoming acute and critical care patients.

Through the COVID-19 surge, and to date, home care and hospice have served thousands COVID-positive patients, and this vital role continues ahead. Above all has been agencies' concerns and prioritization for quality and continuity of care of the patients.

In all of this, one of the greatest challenges to agencies and to care in the home has been the public "fear" of COVID that has been pervasive among patients and household members. This fear factor has led to great resistance to by patients and families to permitting caregiver entrance and contact. This not only impacts COVID-care access, it more pervasively causes resistance to receive needed medical care and support for existing, already serious and underlying medical conditions. Agencies and staff have had to work extensively to provide reassurance and education for patients and families for safe entrance and care. To further help, agencies have worked to transition in-home visits to non-contact alternatives such as telehealth/telephonic visits when appropriate, or to other substitution methods that could maintain vital care management while balancing patient fears.

The closure of physician practices and diversion of physician duties into acute and critical COVID care have added to the challenges, making it near impossible for agencies to

access physicians for the routine medical orders they require for care authorizations, changes, consultations, and interventions. Physician partners and midlevel practitioners such as physician assistants and nurse practitioners offer an immensely helpful and practical source of support; however, NYS has been inexplicably delinquent in issuing its go-ahead to tap these practitioners despite permanent federal authority for their use being granted in March-April. This will be discussed in a request and recommendation later in this testimony.

In all, the care challenges brought about by COVID-19 have been intense, sweeping and impactful on agencies, staff and patients. Agencies are heroic in their response, but need the support of policymakers to meet the requisite operational, staff and patient care need.

Recommendation: HCA urges the Legislature and Administration to provide program supports and funding for critical agency operations, workforce and financial stability entailed in the challenges of COVID-era care. This includes a recommendation to continue to accommodate and expand services and billing that can be redirected to telehealth and other non-contact alternatives, including use for direct services, assessment, startup of care, reauthorizations, case management visits, et al.

IV. Workers and Workforce

Home care and hospice nurses, therapists, social workers and home health/personal care aides are our frontline workforce. The previously-emphasized challenges in "essential personnel" status, PPE, and array of patient/family factors, have enormously tested and strained our home care/hospice personnel. But on top these extraordinary demands, agency workers have also sustained their own, direct personal impacts from CVOID, including impact from their own COVID-afflictions, impact of COVID on their families, death of love-ones and

fellow staff, and the post-traumatic impacts associated with COVID's extreme pressures, intensities and inherent risks on them. Periods of required self-isolation, necessary leave for illness/recovery, school and local resource closures, and reductions in new recruits and trainees, have all combined with a host of additional factors to increase the workforce shortage and the many corresponding challenges the shortage brings to services, operations, capacity and cost. The direct impact of worker availability-loss to COVID, especially the lives lost, has been profound, and has left continuing impact on agencies, colleagues, patients, and capacity.

Throughout COVID, and every day, home care and hospice frontline staff have kept patient care intact and the overall health care system functioning because of their service. The agencies and personnel *need* the support, recognition and program action of the state, and deserve the public's support.

As education and professional training have substantially converted to online, HCA and colleagues have jointly proposed to DOH the approval of a hybrid program for home health aide and personal care aide training and certification, with classroom instruction to be conducted online, and clinical competency testing performed in-person. Social distancing and other COVID-related obstacles have decimated recruitment and training capabilities, and practical solutions are needed. Approval of this online/hybrid program is of urgency.

Recommendation: HCA urges policy and budget support for workforce professional and individual needs, recruitment, training, retention and adequacy of workforce supply, enhanced frontline worker compensation, and prompt DOH approval of our proposed online/hybrid training program for home health and personal care aides.

V. Agency and Service Operations

The pandemic has hugely affected agency operations. For home care and hospice, the COVID effects are compounded by the unique aspects of in-home care, previously discussed. Additionally, home care and hospice operate under complex multilayers of federal and state requirements as well as under procedural coordination physicians and managed care plan partners. Home care and hospice operation is an expansive and complex undertaking under normal conditions, and made exponentially more so in public emergencies, especially throughout COVID-19.

HCA applauds NYS and Federal authorities for the extensive regulatory and procedural flexibility that has been progressively granted throughout the COVID surge.

In the response to COVID, many advancements in care management, service techniques and protocols were accomplished by agencies and staff. Many of these were the result of regulatory and procedural flexibility requested of and provided at state and federal levels, such as was provided with the ability to utilize telehealth/telephonic means to monitor patients, provide services, coordinate with physicians, evaluate patients, supervise and guide staff, and more.

Recommendation: HCA urges that capabilities in home care/hospice/MLTC telehealth, be supported and permanentized by regulatory and/or statutory action as needed. We urge likewise for parallel areas where COVID regulatory and procedural flexibility has allowed new and innovative practice techniques to develop and flourish.

Flexibility should also be provided in areas that, to date, remain delayed in the state's approval pipeline. Of immediate urgency, is issuance of the state's notice of permissibility of

Nurse Practitioners, Physician Assistants and Clinical Nurse Specialists' authority to order home care, consistent with new federal law, as next explained.

One of the most inexplicable gaps continues to be state's delinquency in notice to providers and practitioners of the federal policy changes in adopted March-April providing permanent authority of Nurse Practitioners, Physician Assistants and Clinical Nurse Specialists to order home care services, similar to physicians. HCA has continuously appealed to the State Health Department and Governor's Office to issue the go-ahead to providers and practitioners. This state notice has been said to be "in clearance" since the spring but has yet to appear. It is causing unnecessary problems in the field and preventing the intended help to agencies, patients, practitioners and hospitals.

Recommendation: HCA appeals to the Legislature and Executive for immediate affirmation of the nurse practitioner/physician assistant home authority to order home care.

VI. Fiscal Losses and Need for Urgent Relief

Home care agencies and hospices have incurred major uncompensated costs and funding loss due COVID's impact on patient care, workers, operations and services. HCA forecast approximately $200 million in calendar year 2020 fiscal losses to home care providers attributable to uncompensated costs (especially for massively unfunded PPE expenses), and for lost service reimbursement. This also comes at a time when the DOH has begun implementing Medicaid cuts and program changes adopted in the April budget, and on top of severe downward financial trends for NYS's home care providers, hospices, MLTCs, FIs and other programs. Moreover, home care has simultaneously been overlooked for urgently needed fiscal relief from the three Federal COVID Stimulus packages adopted to date.

The system faces a combined, devastating mix of major unreimbursed costs, funding losses, new budget cuts, missed federal relief, and a decimated, needy workforce.

Recommendation: HCA urges the Legislature and Administration to support urgent state and federal COVID fiscal relief and financial loss mitigation to providers, and revisit and mitigate the adverse home care and MLTC cuts and actions abruptly adopted by the Medicaid Redesign Team and 2020-21 state budget. . Suspend, revisit and mitigate these MRT actions and their impact the system.

Recommendation: HCA also urges the Legislature and Administration to adopt a structural, ongoing component for funding provider and MLTC emergency preparedness and response needs. Such legislation has previously been advanced as both individual bills and budget language, but has stalled at the three-way tables with the Executive. Emergency preparedness is a basic public health structural need. Providers have incurred huge uncompensated costs for PPE in COVID and, going forward, are calls for 90-day advance PPE supplies. It is long overdue that emergency preparedness be supported as a public good, similar to the manner in which public health finance pools currently support such functions as emergency medical services, poison control and other public health needs.

Without adequate support for emergency preparedness and response, NY risks the continuity of care for its citizens receiving home care and the security of the agencies and line staff who provide for them.

VII. Data and Information for Situational Awareness

A core part of emergency health preparedness and response is "situational awareness" at the field and state/regional command levels. Situation awareness is vital to all facets of

emergency management, including assessment, planning, determination of need, strategy, and response. During the COVID-19 pandemic, HCA conducted critical surveys to ascertain the status and needs of providers, workers and patients, and we used every piece of information received to assist at the field, state, regional and federal levels. We were constrained to limit these surveys, however, as the state instituted a daily survey schedule of its own, and providers needed to be left with space for prioritizing patient care; except none of the state's survey data was shared with us or the providers.

For months DOH conducted these surveys of home care and hospice providers daily, collecting crucial data on entire patient rosters, their PPE supplies and needs, COVID-infected and suspected patients, COVID-related deaths, and more. Yet, none of this data or the key findings were shared with HCA or with the providers, despite our pleas to the Department and the Governor's office. Never to our knowledge has such emergency survey information not been shared for situational awareness and constructive collaboration with providers and associations.

Recommendation: HCA urges Legislative and Administration and collaboratively share this emergency survey data with the providers who collected it and our association who assists them. And, prospectively, HCA urges the Legislature to support and/or mandate this vital sharing with providers whenever in the future such emergency information is collected and reported by providers to the state.

VIII. Dearth of State/Regional Incident Command Working Knowledge of Home Care/Hospice, and Frequently Omission in Response Efforts

Time and again in the pandemic, effective action for home care and hospice was hindered by the dearth of working knowledge about these services in the state and local

incident command structure. Noted earlier were the stark examples of home care and hospice exclusion from PPE eligibility in NYC, and struggle with home care and hospice "essential personnel" designation. These are but two of innumerable examples of this problem. Too frequently, the emergency information or other guidance released by the state either overlooked home care and hospice needs, or reflected critical misunderstanding of the field. Prior public emergencies have similarly suffered from these gaps. Considering the core roles of home care and hospice, and the fragility and statewide volume of our patients, this must be rectified. The sometimes lack of coordination between the many DOH bureaus and divisions in the incident command process also, further compounds these problems, and should likewise be addressed.

Recommendation: HCA urges the Legislature and Administration to ensure incident command is coordinated and functionally knowledgeable about home care-hospice.

Additional New Opportunities

HCA urges the Legislature and Administration to consider further opportunities to support additional new and unique initiatives to strengthen the health system for COVID-19 and beyond. A series of new statewide initiatives have been set in motion by HCA and key hospital and agency partners, supported with COVID-19 emergency funding graciously granted to HCA by the Mother Cabrini Health Foundation.

HCA will be pleased provide additional information to the Legislature and Administration about any and all of these new programs. We summarize these next to inform you, and to welcome your support to further their capabilities and benefit.

- **Statewide program for training home care and hospice clinicians to conduct in-home testing for COVID-19.** Through this program, COVID-19 specimen collection can be performed in-home for homebound elderly, ill and medically vulnerable individuals who are at highest risk of COVID severity and death. The program will enable timely testing and care, promote safety and protection of patients, workers and family caregivers, avert exposure of patients in hospital/congregate testing sites, and greatly expand the COVID-19 testing capacity in the state. To date, in just over 2 months since our startup, nearly 2,000 home care/hospice nurses and respiratory therapists have been enrolled in the program, and our grant has been extended through December 31. This program partners HCA, the Iroquois Healthcare Association and Mohawk Valley Health System Home Care.

- **Statewide "Virtual Senior Center".** This initiative will make a unique service combatting homebound isolation -- called the "Virtual Senior Center" -- available to home care agencies and hospices statewide for their patients. The program is being conducted by HCA in partnership with Selfhelp Community Services in NYC, which has pioneered the VSC. The program provides a virtual venue and community content that connects high-risk isolated and medically vulnerable home care patients with key health and social programming, peers interaction, educational classes, self-care management, professional check-ins, and more. Isolation is a major risk factor for poor health, injury, hospitalizations, emergencies, and mortality, and is exponential in COVID. This provides a new statewide resource to combat this problem and support individuals.

- **Statewide Hospital-Home Care Collaborative for COVID and Beyond.** HCA, the Healthcare Association of New York State (HANYS) and the Iroquois Healthcare Association have

partnered to promote and strengthen statewide collaboration between hospitals and home care agencies to address the pre-acute/front-end and post-acute/far-end needs of COVID and other complex, medically needy and high-risk patients. It will provide hospitals and home care agencies statewide with collaborative model examples, resources, guidance, technical assistance and other valuable information and support to promote the statewide synchronization of hospital-home care capabilities.

- **Best Clinical Practices for COVID and Beyond.** In this initiative, HCA has gathered models, guidance, faculty experts and other resources to assist the home care and hospice communities with best practices for addressing patient needs in COVID as well as other highly complex, special needs and high-risk patients. Among the areas of focus will be home care's use of telehealth technology in partnership with physicians to monitor and treat patients, protocols for meeting the needs of medically vulnerable/special needs children and their families in COVID, protocols for addressing patients susceptible to co-infections and sepsis in conjunction with COVID which greatly increases risk of severity and death, personal and professional support for frontline workers in COVID, and much more.

Thank you Chairs and Honorable Members for your consideration of this testimony. HCA looks forward to answering any questions, providing you with further information, and continuing to work together in the COVID-19 effort.

An **Executive Summary** of this testimony's recommendations follows on page 18.

Executive Summary of Recommendations

1. Adopt a New York *Home Care <u>First</u>* policy to optimize opportunity for care at home and community, wherever medically appropriate and able, and synchronize state program and finance policies to this purpose.

2. Ensure state and local emergency managers and procedures diligently abide home care and hospice "essential personnel" status.

3. Adopt policies ensuring home care and hospice priority status for PPE, adequacy of supply, and structural PPE funding mechanisms for providers and managed care**.**

4. Provide program supports and funding for agency operations, workforce and financial stability needs entailed in the challenges of COVID-era care

5. Provide policy and budget support for workforce professional and personal-related needs, recruitment, training, retention and adequacy of workforce supply, and enhanced frontline worker compensation related to COVID impact. Provide prompt DOH approval of our proposed online/hybrid training program for home health and personal care aides.

6. Permanentize new capabilities in home care/hospice/MLTC telehealth as well as for other areas where COVID-era flexibility was reasonably added and has led to new and innovative practice techniques.

7. Provide immediate notification permitting the use of Nurse Practitioners, Physician Assistants and Clinical Nurse Specialists to order home care, consistent with federal policy adopted in March-April.

8. Support urgent state and federal COVID fiscal relief and financial loss mitigation to providers, and revisit and mitigate the adverse home care and MLTC cuts and actions abruptly adopted by the Medicaid Redesign Team and 2020-21 state budget. Suspend, revisit and mitigate these MRT actions and their impact the system. Adopt a permanent structural component of provider and MLTC funding for emergency preparedness and response.

9. Release and collaboratively share with home care and hospice sectors, and the respective associations, the essential emergency survey data collected by these sectors and reported to the state, and prospectively require that such data collected and reported by providers will be collaboratively shared in future emergencies.

10. Ensure state agency and local incident command is coordinated and functionally knowledgeable about home care-hospice.