



We have the legal right of way.

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Interested Party Testimony on House Bill 110
Senate Finance Committee
June 3, 2021

Chair Dolan, Vice Chair Gavarone, Ranking Member Sykes, and members of the Ohio Senate Health Committee, thank you for the opportunity to provide written-only interested party testimony in consideration of House Bill 110 (HB 110). Disability Rights Ohio (DRO) is the federally authorized protection and advocacy system and client assistance program with the mission to advocate for the human, legal, and civil rights of people with disabilities.

DRO applauds the Senate for expanding upon investments in home and community-based services and supports in the substitute version of the budget. These investments are critically needed to support people with disabilities ensuring they can live independently in their communities. The home and community-based service (HCBS) system has been historically underfunded and now more than ever there is a critical need to ensure individuals can access care in their homes and transition out of or avoid risk of admission to long-term care facilities.

This testimony will highlight five (5) total provisions in the Senate substitute budget bill:

- 1) Increased investments in the home and community based service system provider rates to support provider agencies and wages for direct care workers;**
- 2) The need to reestablish the nursing home bed reduction program which provided \$50 million in 2022 to buy back up to an estimated 20% of nursing home bed capacity or 11,000 beds;**
- 3) The student wellness and success funding and how returning the program back to the executive version will provide additional support to students with disabilities;**
- 4) The need for the General Assembly to make additional GRF investments to pull the entire federal match for vocational rehabilitation funding; and**
- 5) The need to establish a hospital oversight program through the Ohio Department of Health and to remove changes by the House and reinstitute the language proposed by Governor DeWine.**

I. Direct Support Provider Wages

DRO applauds the Senate for increasing investments to the HCBS system, specifically, an additional 2% in Ohio Department of Medicaid and Ohio Department of Aging waiver programs

and 2% in each year for residential services for the Ohio Department of Developmental Disabilities waiver programs. However, more can be done. Increasing these investments to 5% for each year of the biennium is critically needed.

Many people with disabilities rely on direct support workers to live independently in their homes and communities; however, this workforce is significantly underpaid and it is difficult for individuals to find providers. As of 2019 direct care workers made an average of \$12.10 per hour.¹ The severe shortage in workforce can lead to individuals being forced into institutional settings like nursing homes. The last budget appropriated a rate increase for some of this essential workforce. This increase was long overdue and critically needed; however, it remains unclear if this funding supported increases in wages for direct support providers.

DRO applauds the Senate for providing an additional 2% increase in provider rates for home health, as additional funding is needed for this workforce if Ohio is to support people with disabilities and their right to live independently in their homes and communities. Direct care workers and their agencies have been underfunded for far too long. Ensuring providers and their agencies are fully supported through the state budget can build out a system capacity that allows individuals to receive care in their home.

This workforce is disproportionately made up of women who are Black, Indigenous, and people of color (BIPOC). Specifically, BIPOC individuals make up 18% of Ohio's population, but 42% of direct care workers are BIPOC individuals and a large portion of the workforce relies on other state programs for assistance living. Specifically, 53% of direct care workers receive public assistance with 39% on Medicaid. In 2018, 57% of the direct care workforce was earning less than 138% of the poverty level.² Continuing to underpay this essential workforce while other industries pay a higher wage for less demanding work is a serious issue. Ohio should be prioritizing the needs of people with disabilities and to do this the state needs to support these providers.

Low wages for direct care workers push individuals into other competing industries that pay significantly higher wages. For instance, retail workers make an average of \$12.14 an hour, office clerks make an average of \$16.37 an hour, and recently, COSTCO employees began making at least \$16 an hour. And, although the direct care workforce continues to be underpaid, demand for this workforce grows. Specifically, the Bureau of Labor Statistics anticipates the need for this workforce will increase by 34%. If the state does not make the necessary investments to support these individuals, they will continue to leave the workforce and put added pressure to an already stressed home and community-based service system forcing people with disabilities into unnecessary institutionalization.

¹ PHI. "Workforce Data Center." Last modified September 14, 2020. <https://phinational.org/policy-research/workforce-data-center/>.

² *Ibid*

Finally, the state has an obligation to build out these systems and support people with disabilities in their communities. The Americans with Disabilities Act, the landmark civil rights legislation for people with disabilities, and as affirmed by *Olmstead v. L.C.*, mandates individuals have the right to live in the most integrated setting appropriate to their needs. This is not possible if people with disabilities do not have access to direct support workers. For Ohio to meet this obligation it is critical they support direct care workers and provide additional funding to support increases in wages. Otherwise, inequities will be exacerbated and people with disabilities will continue to be unnecessarily institutionalized.

II. Nursing Home Bed Reduction Program

The House removed a voluntary program that would reduce capacity of nursing facilities by up to 11,000 beds or 20% and the Senate did not restore this program in their substitute version of the bill. DRO recommends the Senate reinstate this program. Ohio's system of care for individuals has dramatically shifted since 2007. Over the past decade, long-term services and supports have gone from a majority reliance on institutional care to a majority reliance on home and community-based services and supports. Specifically, in 2007, 54% of individuals received services in an institutional setting compared to 46% in HCBS. In 2021, 68% of individuals now receive services in HCBS compared to 32% in an institutional setting.³

This along with the continued rise in individuals participating in Ohio's Medicaid HCBS waiver programs show the desire of people with disabilities to remain in their homes and communities. Therefore, reducing capacity of nursing facilities becomes necessary. This reduction in nursing facility beds should be aligned with an increase in funding for HCBS including provider wages, reimbursement rates, and waiver programs. As more people receive services in their homes Ohio must make the investments needed to ensure this population is not forced back into institutions.

This issue has been further exacerbated by the COVID-19 pandemic as nursing facilities have become the center of COVID deaths in the state. Since April 15, 2020, 7,093 Ohioans have died in our long-term care facilities, accounting for 48% of confirmed COVID-19 deaths in the state.⁴ This pandemic has shown the need to make investments in our home and community-based service systems so people with disabilities are able to access care safely and be able to live and work independently in their communities.

III. Student Wellness and Success Funding

DRO applauds the Senate for reestablishing the Student Wellness and Success Funding as a targeted program to support students with disabilities. However, the Senate should consider fully funding the program at the level proposed by Governor DeWine. This additional funding will help support students and ensure they are accessing needed services in their schools.

³ Ohio Department of Medicaid. "Medicaid Support for Community Living." April 2, 2019. <https://medicaid.ohio.gov/Portals/0/Resources/Budget/MedicaidSupportCommunityLiving.pdf>

⁴ Ohio Department of Health. COVID-19 Dashboard. March 1, 2021. <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards>

According to the Student Wellness and Success Fund: Survey Data Report released in December of 2020, 66% of school districts reported implementing or planning an initiative for mental health services. This program is essential, especially as COVID-19 continues to impact on students with disabilities and their access to services in schools. Keeping the Student Wellness and Success funding as a targeted program is necessary to support students with disabilities long-term.

IV. Drawing the Entire Federal Match for Vocational Rehabilitation Services

The Senate substitute bill does not include additional GRF funding to pull the entire federal match. The Senate should consider spending an additional \$6 million of GRF in each year of the biennium to draw a total of \$114 million in FY 22 and FY 23. This increase would mean additional support to help individuals attain and maintain employment in their communities in an economy where the unemployment rate has disproportionately impacted people with disabilities

COVID-19 has had a devastating impact on Ohio's employment rate and a disproportionate impact on employment for people with disabilities. Since March of 2020, 1 in 5 people with disabilities have lost their jobs compared to 1 in 7 in the general population.⁵ Supporting workers with disabilities is essential to supporting Ohio's economy and ensuring integration into an individual's community. However, this budget does not draw down the entire federal match for vocational rehabilitation (VR) services that provide support to attain and maintain employment for people with disabilities in the state.

V. Hospital Oversight

HB 110 establishes a licensure program for hospitals in the state, which is necessary to ensure the rights of people with disabilities are protected. DRO applauds the Senate for maintaining this initiative; however, it is unclear the reason for removing health maintenance organizations (HMO) from this requirement and if this would mean certain hospitals would be exempt from the licensure requirement. The Senate should ensure this licensure requirement applies to all hospitals. This program provides the ability for Ohio to address issues with care rationing and equitable access to healthcare. The COVID pandemic revealed that a lack of oversight from the Ohio Department of Health creates difficulties advocating for the rights of people with disabilities and ensuring access to care. Specifically, at the height of the pandemic when hospital capacity was reaching its max, there was no clear enforceable oversight to ensure hospitals were not discriminatorily rationing care for people with disabilities.

DRO applauds the Senate for their work on this budget. Although the Senate has made needed investments into Ohio's HCBS system there are lingering issues for the Senate to consider as the budget moves into Conference Committee. As you work on finalizing the budget, DRO looks

⁵ US Department of Labor: Office of Disability Employment Policy. "Employment for Persons with a Disability: Analysis of Trends During the COVID-19 Pandemic." November 2020.
https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/ODEP_Employment-for-PWD-AnalysisofTrendsDuringCOVID_Feb-Sept.pdf

forward to working with members of the Senate on these issues. If you need any additional resources, information, or wish to discuss these issues further please do not hesitate to reach out to Jordan Ballinger, Policy Director at jballinger@disabilityrightsohio.org or (614) 466-7264 x135.