



We have the legal right of way.

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Interested Party Testimony on House Bill 110
Senate Health Committee
May 6, 2021

Chair Huffman, Vice Chair Antani, Ranking Member Antonio, and members of the Ohio Senate Health Committee, thank you for the opportunity to provide interested party testimony in consideration of House Bill 110 (HB 110). My name is Kerstin Sjoberg and I am the Executive Director of Disability Rights Ohio (DRO) which is the state designated protection and advocacy system and client assistance program with the mission to advocate for the human, legal, and civil rights of people with disabilities.

As you know, the House passed a substitute version of HB 110 that maintained investments in home and community-based services and supports as introduced in Governor DeWine's proposed budget. However, the initial investment is not enough to support people with disabilities and ensure they can live independently in their communities. Now is an opportunity for the Senate to act and make the necessary investments to support Ohioans in their homes and 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. Although this budget provides supports, more can be done to ensure a stable direct care workforce for people with disabilities. Therefore, Disability Rights Ohio is calling on the Senate to:

- 1) Increase investments in the home and community based service system by an additional 1% for 2022 and 5% for 2023 in provider rates to support provider agencies and wages for direct care workers; and**
- 2) 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.**

In addition to these two core components, attached to this testimony as an addendum are four additional issues DRO would like to address that impact Ohioans with disabilities.

I. Direct Support Provider Wages

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.

Although the bill provides a 4% increase in provider rates for home health, 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. Additionally, provisions should be included to ensure the increases make it to the actual workers. 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.

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

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

² *Ibid*

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%. 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.

I thank you for the opportunity to provide interested party testimony in consideration of HB 110. DRO hopes the Senate picks up where the Ohio House left off and provide the necessary investments to support the home and community-based service system in the state. DRO looks forward to working with this committee and members of the Ohio General Assembly during the budget process to ensure people with disabilities can live and work independently in their communities.

I am happy to take any questions from members of the committee.

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>

In addition to the needed investments into Ohio's HCBS system, DRO would like to address three (3) additional areas from the budget that impact people with disabilities. Specifically, DRO will address:

- 1) The student wellness and success funding and how shifting this funding into the new school funding model will have a disparate impact on students with disabilities;
- 2) The need for the General Assembly to make additional GRF investments to pull the entire federal match for vocational rehabilitation funding; and
- 3) 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. Student Wellness and Success Funding

The House substitute version of HB 110 incorporates House Bill 1 (school funding) and shifts funding from the student wellness and success funding into the disadvantaged pupil impact calculation for the foundation formula. The House Finance Committee should reestablish this funding as an independent targeted program and not include it into the foundation formula. By shifting these resources into the disadvantaged pupil impact calculation, it remains unclear if the same level of financial support would be distributed to schools to provide these targeted services to students with disabilities.

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. Folding this funding into the school funding formula could impact a school's ability to provide these kinds of 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.

II. Drawing the Entire Federal Match for Vocational Rehabilitation Services

The House substitute bill does not include additional GRF funding to pull the entire federal match. The House Finance Committee 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.

III. 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 House Finance Committee 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 House Finance Committee 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 looks forward to working with Senate on these issues as the budget process continues. If you need any additional resources 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.

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