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Interested Party Testimony for House Bill 33

Thank you, Chairman Huffman, Vice-Chair Johnson, Ranking Member Antonio, and Senators Hackett, Ingram, Roegner, and Romanchuck for the opportunity to testify on issues that are important to The Ability Center of Greater Toledo. My name is Katie Hunt Thomas, and I am an Attorney and Director of Advocacy at The Ability Center of Greater Toledo. On behalf of my organizations, please accept this testimony regarding HB33.

There are three issues that I want to bring to your attention today. First, the language establishing a formal, supported-decision making agreement in the House version of HB33; second, increasing wages for the Direct Care Workforce; and third, establishing Direct Care Workforce Commission that can make recommendations on how to solve the current direct care crisis.

First, The Ability Center is asking the Senate to amend the language of a Supported- Decision- Making amendment that passed the House of Representatives.

The version of HB33 that passed the House of Representatives included a provision that would allow a person to create a formal supported-decision making contract. Supported decision-making is part of a national movement to create alternatives to guardianship for people with disabilities – to reserve guardianship for those who truly need it rather than having it be a default for anyone with a disability that reaches age 18. We support supported decision making as an alternative to guardianship, but supported decision making should be an informal arrangement with family and friends – not a formal contract. State law needs to reflect that.

The House version of the budget includes language that would give a supporter the ability to make decisions on behalf of a principal, a person with a developmental disability, in any area of his or her life simply by signing a form and getting it witnessed. Looking at Section 5123.68 (B)-(C), once a principal enters into a formal agreement with a supporter, the supporter would then be able to **make, communicate, and implement life decisions for that person**. Instead of encouraging an alternative to guardianship, the language, as it now stands, would be, in practice, a way for a person to obtain a guardianship-like arrangement without the oversight and protection of the Probate Court.

There are many advocates and family members that would use that sort of arrangement to accomplish the expressed intent of avoiding guardianship, but there are also those who would use that sort of arrangement for exploitation. It could be that, leaving the language as it is, would make the problem we are trying to solve worse. Also, there are other tools short of guardianship that give people actual legal authority to assist someone – powers of attorney, living wills, becoming a payee, and other similar legal tools.

The Ability Center is in favor of state law recognizing supported decision making as a valid modal in Ohio, but the law must reflect the purpose of supported decision making – to be an informal arrangement

where a person with a disability has a friend or family member assist him or her in making decisions. The model should not assign any actual authority to the supporter. The current language opens people with disabilities up for potential exploitation, so it need to be amended to reflect an informal agreement.

Second, The Ability Center wants to emphasize the great need for a base hourly wage for Direct Care Workers of at least \$20/ hour offered across all Ohio Home and Community Based Services Waivers;

We are grateful for the increases to Direct Care Wages that passed the House of Representatives and appreciate the state of Ohio responding to our concerns. However, we recommend that the hourly base wage for Direct Care Workers to be increased to \$20/ hour.

As this committee is well aware, the largest barrier to community-based living for people with disabilities in Ohio right now is a shortage of direct care workers. Our agency has received many panicked calls from people with disabilities whose direct care worker did not show up, from individuals who cannot find a direct care worker at all, and from family members of those with disabilities who can no longer provide a consistent level of caretaking due to health or capacity but cannot find someone else to step in. While there are many systemic issues that contribute to this problem, core to the issue is the issue of wages. The average wage for a direct care worker in Ohio is \$12.95/ hour. When many direct care jobs also do not have a guaranteed number of hours a week or benefits, there is nothing to attract workers to direct care positions except a calling to the field.

Direct Care jobs are difficult jobs that are part of the health care field – they should pay more than an entry level job at Target or Costco. According to a report from PHI, Ohio’s Direct Care Workers were paid an average of \$12.61 in 2021. That is a growth of only \$0.56 or 5% from the years of 2011 to 2021¹. In addition, a National Low Income Housing Coalition report noted that in Ohio, an individual needs to make at least \$17 per hour to afford a modest 2-bedroom home². Based on this data alone, a Direct Care Worker would be unable to afford housing, food, medical care, etc. leading many to qualify for Medicaid services themselves. In order to fix the shortage of direct care workers, we need to increase wages to at least \$20/ hour across Medicaid, DODD, and Aging Waivers.

Third, The Ability Center is asking our legislators to create a Direct Care Workforce Commission to study the Direct Care shortage and recommend solutions to the problem.

Due to the complexity of the waiver system, it is apparent that a commission needs to be created that directly oversees the Direct Care Workforce. Wages are a key issue, and again, I appreciate the support that we have been shown by increasing wages. However, wages are not the only issue – there are also issues with how workers are reimbursed; the training and certification process; and recruitment. These issues are best studied by experts in those areas who can make recommendations on how to fix them.

Last year, Governor DeWine put together a task force to discuss the direct care crisis that developed a report with 15 considerations for Ohio to alleviate the Direct Care workforce shortage. We commend the Governor for taking this important step. Now it’s time to study those considerations and make direct recommendations on how to fix the crisis. **Without this enforcement of reform, the care system in Ohio will be unable to support the future need.**

¹ PHI, Workforce Data Center (2020) available at <https://www.phinational.org/policy-research/workforce-data-center/#var=Wage+Trends&states=39>

² NLIHC, Out of Reach: The High Cost of Housing, p199 (2022) available at <https://nlihc.org/oor>

Finally, I ask you to increase funding for Centers for Independent Living. Many legislators are familiar with The Ability Center's advocacy program, but as a Center for Independent Living, we also offer direct services meant to remove barriers to independent living for people with disabilities – we provide home modifications and durable medical equipment to those who need it; train assistance dogs to assist those with mobility impairments; operate a youth program to assist youth with disabilities in transitioning from education to employment; and operate an information and referral line to get people to resources. We are only one of twelve CILs in Ohio, and we are a good investment.

Thank you for this opportunity to provide testimony. I am happy to follow up on any of these issues and provide additional supporting documentation for our asks. Thank you again for the opportunity to testify on HB33, please let me know if you have any additional questions or concerns.

Sincerely,

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