

FOR IMMEDIATE RELEASE

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**DEPARTMENT OF CONSUMER AFFAIRS ANNOUNCES FINDINGS OF
MAJOR INVESTIGATIONS INVOLVING 42 HOME CARE AGENCIES THAT
EMPLOY MORE THAN 50,000 WORKERS**

*Investigations Reveal Evidence of Widespread Noncompliance and Ongoing Workplace Related
Violations*

*Leads to Joint Investigation with the New York State Office of the Attorney General, Several
Cases Filed with the NYC Office of Administrative Trials and Hearings, and Settlements with
Half of the Agencies Investigated*

NEW YORK, NY — Deputy Mayor Alicia Glen and NYC Department of Consumer Affairs (DCA) Commissioner Lorelei Salas today announced the findings of a major enforcement initiative involving 42 home care agencies throughout the five boroughs, affecting an estimated 50,000 workers. The investigations were led by DCA's Office of Labor Policy and Standards, the City's central resource charged with protecting and promoting labor standards and policies to create fair workplaces.

The home care industry investigation, which began in [July 2017](#), focused on compliance with the City's Paid Safe and Sick Leave Law, and included interviews with more than 500 workers and an extensive review of documents provided by workers and employers. Since the law went into effect in April 2014, home care aides have become the third largest source of Paid Safe and Sick Leave complaints. As a result, DCA proactively launched investigations into 42 home care agencies that employ close to 30 percent of home care aides in New York City, examining their compliance with the NYC Paid Safe and Sick Leave Law, wage and hour requirements, and other workplace standards.

"NYC's more than 200,000 home nurses, physical therapists, social service providers and hospice workers – the vast majority of whom are women – keep our city running," said **Alicia Glen, Deputy Mayor for Housing and Economic Development**. "Unfortunately, homecare workers are uniquely vulnerable to violations against labor protections like Paid Safe and Sick Leave. DCA's enforcement initiative has not only produced real results for more than 300 homecare workers but it underscores the City's ongoing commitment to establishing and enforcing fair, safe workplaces for all New Yorkers."

"We want New York City's home care aides to know that we are working hard so they can exercise their rights," said **DCA Commissioner Lorelei Salas**. "We also want to make it clear to home care agencies across the five boroughs that lack of compliance with the law will not be tolerated. Home care workers are vital and valuable laborers who care for our loved ones, and we will continue working to ensure that this rapidly growing industry is held accountable. We urge any worker who believes they have been treated unjustly to reach out to us so we can take the necessary steps to help protect their rights and connect them to other resources."

DCA's investigations found violations across a variety of laws, including Paid Safe and Sick Leave, wage and hour, and the New York State Wage Parity Law, which requires higher compensation for home care workers whose services are funded by Medicaid.

More specifically, the investigations revealed:

- **Lack of access to sick leave and widespread evidence of noncompliance regarding sick leave:** DCA found pervasive violations of certain provisions of the NYC Paid Safe and Sick Leave Law that are essential to workers knowing about or having access to their paid sick leave rights. Workers frequently reported never having seen a notice of their rights or their employer's sick leave policy. Under the law, employers must provide workers with written notice of their rights to sick leave and must maintain a policy that is distributed to workers. DCA found widespread denials of sick leave requests, workplace-wide restrictions regarding the use of sick leave, and retaliation when workers tried to use sick leave. With little knowledge of their rights, workers often reported fear of asking for sick leave or having been told they were not entitled to sick leave. Under the NYC Paid Safe and Sick Leave Law, employers with five or more employees who work more than 80 hours per calendar year in New York City must provide paid leave to employees. Employers with fewer than five employees must provide unpaid leave. Accrual of leave is at a rate of one hour of leave for every 30 hours worked, up to 40 hours per calendar year, and begins on employee's first day of employment.
- **Wage and hour violations:** DCA uncovered significant evidence of minimum wage and overtime violations, including inadequate compensation for 24-hour shifts. Overnight shifts are common in the home care industry, and many workers reported being paid for only 13 hours without regard for whether they got any genuine sleep or rest time during the shift. The minimum wage for home care agency employees is \$12.00 per hour if the agency has 10 or fewer employees and \$13.00 per hour if the agency has 11 or more employees. If an employee works more than 40 hours in a week, the agency must pay at least 1.5 times the employee's regular rate of pay for the overtime hours.
- **Lack of transparency regarding wage parity:** DCA discovered that many agencies failed to make any meaningful disclosure about wage parity benefits to employees, raising serious questions regarding these agencies' compliance with the Wage Parity Law. Workers consistently described low-level benefits and not receiving any information detailing the cost or payment for these benefits. The New York State Wage Parity Law requires employers to pay higher wages and/or benefits to workers when providing home care services to a Medicaid recipient. The total value of wages – including the value of any benefits provided to a worker – must be at least \$16.09 per hour for agencies with 10 or fewer employees and \$17.09 per hour for agencies with 11 or more employees.

As a result of the investigations, DCA has:

- **Settled 21 cases** involving violations for, among other things, failure to give workers notice of and full access to their right to safe and sick leave, resulting in \$42,731 in restitution for home care aides and more than \$23,448 in fines. In addition, the agencies

have agreed to corrective actions, including implementing comprehensive written sick leave policies, appointing a compliance officer, distributing sick leave policies to all employees, and ensuring managers are trained on the provisions of the law.

- **Filed 11 cases with the NYC Office of Administrative Trials and Hearings (OATH)** seeking restitution for employees and fines. In these cases, DCA found agencies were not allowing employees to use sick leave, failed to provide employees with notice of their rights, failed to carry over unused sick leave, and failed to maintain written sick leave policies that meet or exceed the requirements of the law. These cases affect more than 15,000 home care aides.
- **Referred two cases** with some of the most widespread evidence of noncompliance – including sick leave, wage and hour, and wage parity concerns – **to the New York State Attorney General’s Office (NYS OAG)** for a joint investigation.
- **Referred 13 home care agencies to the New York State Department of Health, the New York State Department of Labor, and the Office of the Medicaid Inspector General** for further investigation regarding possible violations of the wage parity law.

In addition, DCA will use the findings of these investigations to make policy recommendations that increase transparency of rights and promote a more equitable workplace for home care workers.

New York City’s paid care workforce is large and continually growing. Over the past decade, the number of New Yorkers reporting paid care as their primary occupation grew from 176,000 to 202,000, and increase of 26,000 or 15 percent. This, compared to growth of 10 percent in the overall workforce, demonstrates expansion of the paid care workforce and shows no signs of slowing down. This number is expected to grow as analysts predict that by 2040, New York City will be home to 1.4 million seniors with 70 percent of this population requiring long-term care.

Nationally, home care aides are ranked first in the U.S. Bureau of Labor Statistics’ most recent projections of occupations that will grow most rapidly between 2016 and 2026, with an estimated growth of 46.7 percent. Personal care aides rank second, with projected growth of 37.4 percent. This, combined with the movement away from institutional care in favor of home-based care, compounds on the importance of ensuring protections for paid care workers, who play such an essential role in this city’s dynamic economy.

“Home care aides put their time, patience and dedication into the work they perform each day,” said **City Council Speaker Corey Johnson**. “Caring for the loved ones of families throughout the city – many of whom are elderly or living with disabilities – is no easy task, and as elected officials, it is our job to ensure that home aides are treated as fairly as all other employees in New York City. The Council enacted the Paid Safe and Sick Leave Law to guarantee all New York City employees access to leave and fair wages, and we are very proud of the Department of Consumer Affairs’ (DCA) work to defend our city’s workforce, including home care aides. I am saddened to learn that several home care agencies violated the Paid Safe and Sick Leave Law, and I urge any worker who feels they have been mistreated to contact the DCA. I thank Deputy Mayor Alicia Glen and DCA Commissioner Lorelei Salas for their leadership and continued efforts to protect all hardworking New Yorkers.”

“Good laws are the beginning, but they only improve lives when they’re accompanied by diligent outreach and tough enforcement,” said **Manhattan Borough President Gale A. Brewer, sponsor of New York City’s Paid Sick Leave Law**. “I thank the Department of Consumer Affairs and its partners for demonstrating all employers can and will be held to the standards for safe, fair workplaces set out in this city’s laws.”

“Home care aides are an integral part of our city’s economy, and care for some of the most vulnerable members of our society,” said **Council Member Rafael Espinal, Chair of the Committee on Consumer Affairs and Business Licensing**. “They are entitled to the same benefits and rights other workers throughout our city enjoy. The findings announced today signal that New York will not tolerate worker exploitation or violations of labor law. Especially at a time when labor is under attack in our country, we need to stand up for the rights of workers in our city. My mother was a home care aide, and the wages she earned helped her raise a family of six. We need to hold this industry accountable so all home care aides have a shot at the American Dream. I want to thank DCA for their investigation of this matter, and look forward to working with them and my colleagues in the City Council to ensure we do right by these workers.”

“The enforcement of a law is vital to ensuring its benefit to the public is realized,” said **Council Member I. Daneek Miller, Chair of the Committee on Civil Service and Labor**. “Since 2014, the Paid Safe and Sick Leave Law has been enhanced to protect a wide swath of working New Yorkers against termination or retaliation for exercising their right to care for themselves or an ailing loved one, and today’s announcement demonstrates there are real consequences for employers who fail to adhere to its conditions. Our home health aides bear a unique responsibility in caring for the well-being of our City’s most vulnerable, and are particularly deserving of the security this law provides. I thank Commissioner Salas and her colleagues at the Department’s Office of Labor Policy and Standards for their vigilance in guarding the home care industry against negligent and crooked practices such as the ones exposed through this investigation.”

“Home health aides provide critical care and support to our vulnerable loved ones,” said **Attorney General Barbara D. Underwood**. “Yet the widespread labor violations we’ve found harm these workers, who already put in long hours under difficult conditions at minimum wage. My office will continue to protect home health aides – and all New York workers – from wage theft, unlawful retaliation, and other labor violations.”

“As NYC’s aging population continues to grow, so does the demand for home care workers,” said **State Senator Brad Hoylman**. “Despite their vital role, home care aides face exploitative working conditions and violations of longstanding labor protections like minimum wage and paid leave. New York City stands unequivocally with labor, and I commend the DCA for empowering workers and holding bad actors accountable.”

“Home care workers serve our most vulnerable population,” said **Assembly Health Committee Chair Richard N. Gottfried**. “The law is only as good as its enforcement, and I commend the DCA for its work ensuring that home care workers have the labor protections and benefits they’ve earned.”

“We thank the New York City Department of Consumer Affairs’ Office of Labor Policy & Standards and the Division of Paid Care for their diligent efforts to enforce the paid sick leave law and share information gained in the course of investigations with the state agencies responsible for enforcing the other laws,” said **Rona Shapiro, Executive Vice President, Home Care Division, 1199SEIU**. “Employers who have signed collective bargaining agreements with 1199SEIU guarantee these days off, but as the Department of Consumer Affairs’ investigation demonstrates, too many home care agencies do not. Both home care workers and responsible home care employers are benefiting from OLPS’ vigorous enforcement of the law.”

“Home health workers provided in-home care for my beloved stepmother as dementia robbed her of her ability to care for herself and her family,” said **Rachel Khan, member, Hand in Hand – The Domestic Employers Network**. “Their work spared her from being institutionalized until the very end of her life. The work of those women made it possible for her husband and four children to continue working and going to school. But employing caregivers was entirely new ground for us. Like many families, the need for home health workers came at a time when we were struggling emotionally and financially and needed guidance about what our obligations as employers were. How should we communicate with this professional stranger who was suddenly doing incredibly intimate work in our family? What was the going rate for this kind of care? We did not find easy answers, I would have been incredibly grateful for help from an organization like Hand in Hand when we were going through that as a family. The people who make sure that our elders’ dignity and comfort towards the end of their lives deserve the same consideration that I expect as a white-collar worker in an executive position. Home health workers are usually women of color and immigrants, which can make it that much harder for them to gain the respect they deserve. If we want to improve the quality of life and care for all New Yorkers, we need to start by doing the vital work of educating families like mine so that when our homes become workplaces, we know how to be good employers.”

“This investigation by the New York City Department of Consumer Affairs (DCA) demonstrates the importance of robust enforcement of the law,” said **Caitlin Connolly, Director of Social Insurance for the National Employment Law Project**. “DCA’s investigation is particularly critical to home care workers, who provide essential services and supports but have faced a long history of being disrespected. New York’s home care workers have fought hard for their rights and they deserve vigorous enforcement. The city’s efforts to support these workers is matched by its commitment to hold accountable employers who break the law. To meet the growing demand for home care, we must attract and retain workers by ensuring that these jobs are quality jobs. DCA’s initiative is a step in the right direction.”

“DCA’s directed enforcement strategy to investigate the working conditions and workers’ rights violations in the home care industry is precedent setting,” said **Irene Jor, New York Director, National Domestic Workers Alliance**. “It establishes an important model for conducting industry-wide investigations with systemic issues. Paid care work is essential to New Yorkers, and as it continues to grow, we must ensure that the workers are treated with the dignity and respect that they afford the countless seniors and families they work with. The directed enforcement strategy demonstrates a step up towards reframing how we care for caregivers in this sector as a whole, and places an emphasis on investing in the design of a care system that does not shortchange anyone.”

Enforcement is one prong of DCA's efforts to protect paid care workers. DCA also utilizes education and advocacy in its efforts and has taken numerous steps to educate New Yorkers about Paid Safe and Sick Leave and other workplace rights. In partnership with paid care worker organizations, employers, and other stakeholders, DCA's [Paid Care Division](#) uses an interdisciplinary approach to raising job standards in care industries: policy development; outreach and education for workers and employers; intake and referral to outside resources; original research; and enforcement of the law. DCA has held three public meetings for paid care workers and conducted more than 150 events for paid care workers, including meetings with organized and unorganized workers, trainings with direct service providers and outreach events in all five boroughs. DCA also has a [brochure](#) in multiple languages about the protections and resources available to paid care workers. Paid care workers can also call 311 and say, "paid care" for more information about resources.

On March 27, 2018, DCA released a report titled, "[Lifting up Paid Care Work: Year One of New York City's Paid Care Division](#)," which provides an analysis of what the City's Paid Care Division has learned, model standards for paid care jobs, an overview of its accomplishments, and a roadmap for action it plans to take in the years to come as the Paid Care Division concludes its first year. In partnership with Ruth Milkman of The City University of New York, DCA also released the "[Making Paid Care Work Visible](#)" report, which, using focus group and survey results, details the concerns of New York City's home-based paid care workers whose voices are too often unheard or disregarded by policymakers or by the wider public.

DCA offers online guides regarding the NYC Paid Safe and Sick Leave law for both [workers](#) and [employers](#), and encourages workers who feel they may be affected to file a complaint by downloading the form online at nyc.gov/dca and filing by email, mail or in person. Workers can also contact 311.

The NYC Department of Consumer Affairs (DCA) protects and enhances the daily economic lives of New Yorkers to create thriving communities. DCA licenses more than 81,000 businesses in more than 50 industries and enforces key consumer protection, licensing, and workplace laws that apply to countless more. By supporting businesses through equitable enforcement and access to resources and, by helping to resolve complaints, DCA protects the marketplace from predatory practices and strives to create a culture of compliance. Through its community outreach and the work of its offices of Financial Empowerment and Labor Policy & Standards, DCA empowers consumers and working families by providing the tools and resources they need to be educated consumers and to achieve financial health and work-life balance. DCA also conducts research and advocates for public policy that furthers its work to support New York City's communities. For more information about DCA and its work, call 311 or visit DCA at nyc.gov/dca or on its social media sites - [Twitter](#), [Facebook](#), [Instagram](#) and [YouTube](#).