

# WORKFORCE UNDER PRESSURE



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News From Members, Partners and LeadingAge New York

Our national partner, LeadingAge, is an association of 6,000 not-for-profit organizations dedicated to expanding the world of possibilities for aging. Together, we advance policies, promote practices and conduct research that supports, enables and empowers people to live fully as they age.



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Founded in 1961, LeadingAge New York represents more than 500 not-for-profit, public and mission-driven senior care providers, including nursing homes, senior housing, adult care facilities, continuing care retirement communities, assisted living, home care and community services providers which serve approximately 500,000 people across New York each year.

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## Helping Members to Provide the Best Care Under Workforce Pressures

According to the website, LeadingAge Center for Workforce Solutions, “the population of adults age 65 and older will increase from 47.8 million in 2015 to 88 million in 2050 and the nation will need 2.5 million Long Term Services and Supports (LTSS) workers by 2030 to keep up with the growth of America’s aging population.”

Further, the Center for Workforce Solutions explains there are three critical issues that are caused by an unstable workforce.

**1) High provider costs:** it’s expensive to continuously recruit and train new workers and to use temporary contract staff; **2) Concerns about access and quality:** a shortage of workers means that consumers have more problems accessing services. Worker shortages can also compromise quality of care and quality of life for LTSS consumers; and **3) Poor working conditions:** staff shortages often cause hardships for workers who remain on the job. These hardships include extreme workloads for both nurses and direct care worker staff, inadequate supervision, lost time as new workers learn their jobs, and high accident and injury rates. More workers are currently leaving the LTSS sector than are entering it.

For many LeadingAge New York members finding and keeping key employees is already challenging. Finding smarter ways to recruit and retain good people is a priority for all employers in the aging field to meet the increasing workforce challenges. This issue of *LeadingAge NY Adviser* looks at some specific issues and ideas for employers as they seek to manage workforce issues.

Learn how the Governor’s efforts to limit executive compensation affect LeadingAge NY members and what legal action has been taken on members’ behalf in, *Executive Compensation: A Complicated and Controversial Topic in New York State*, by LeadingAge NY Executive Vice President Dan Heim. Hinman Straub, P.C. explores the significant changes in the legal and regulatory environment in New York State in, *Under Pressure: Examining Five New Wage and Hour Mandates and the Impacts on Employers*, by Joseph M. Dougherty, Esq. and Benjamin M. Wilkinson, Esq. Also see examples of members finding solutions to workforce issues in *Happy Staff Equals Happy Residents* submitted by Presbyterian Senior Care of Western New York and *Parker Implements New Technology to Improve Patient Care and Reduce Stress on Personnel* submitted by Parker Jewish Institute for Health Care and Rehabilitation. Finally, don’t miss *Workplace Policies to Prevent Harassment Claims* by Cool Insuring in the, “This is Cool” feature.

These and many other articles in this issue will provide tools and resources as members seek to provide the best care and services possible now and in the future. Thank you, as always, to the many generous advertisers who help support *Adviser* and the value brought to LeadingAge NY members.

For specific information about the stories in this issue or to discuss future *Adviser* ideas, contact Kristen Myers at [kmyers@leadingageny.org](mailto:kmyers@leadingageny.org).

Happy Holidays!

A handwritten signature in black ink, appearing to read 'James W. Clyne Jr.' with a stylized flourish at the end.

James W. Clyne Jr.  
President and CEO



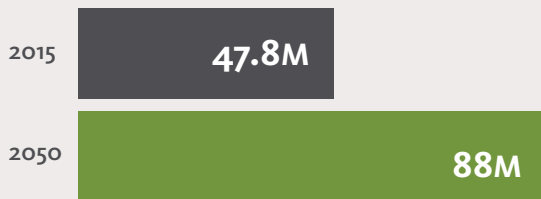
# National Workforce Crisis facing Long-Term Services and Supports

The United States is experiencing a significant shortage of, and a growing demand for, qualified workers who are capable of managing, supervising, and providing high-quality services and supports for older adults.

*Several trends are fueling this national workforce crisis*

## A Rapidly Growing Older Population

The population of adults age 65 and older will increase from 47.8 million in 2015 to 88 million in 2050.



## A Growing Need for Assistance



The U.S. Department of Health and Human Services estimates that nearly **70% of people who reach the age of 65** will ultimately need some form of long-term services and supports (LTSS).

76%

By 2035, the number of older households with a disability **will increase by 76% to reach 31.2M**



## A Growing Need for Workers

The nation will need **2.5 million** LTSS workers by 2030 to keep up with the growth of America's aging population.



The projected percentage increase in the number of positions employed in long-term care between 2010 and 2030 are the following:



## What Does an Unstable Workforce Mean for Providers?



### 1. High provider costs.

It's expensive to continuously recruit and train new workers and to use temporary, contract staff.



### 2. Concerns about access and quality.

A shortage of workers means that consumers have more problems accessing services. Worker shortages can also compromise quality of care and quality of life for LTSS consumers.



**3. Poor working conditions.** Staff shortages often cause hardships for workers who remain on the job. These hardships include extreme workloads for both nurses and direct care worker staff, inadequate supervision, lost time as new workers learn their jobs, and high accident and injury rates. More workers are currently leaving the LTSS sector than are entering it.

## Shortage of Workers Trained in Geriatrics

**1 : 4,254**

By 2030 the projected need for geriatric physicians is 36,000 but the projected number is 7,750 or one geriatric physician for every 4,254 older Americans.

**1 : 20,195**

By 2030 the projected number of geriatric psychiatrists is 1,659 or one for every 20,195 older Americans.



4% of social workers and less than 1% of physician assistants identify themselves as specializing in geriatrics.

**< 1%**

Less than 1% of RNs and pharmacists are certified in geriatrics • Less than 1% of practicing physical therapists are certified as geriatric clinical specialists.

Visit [LeadingAge.org/Workforce](http://LeadingAge.org/Workforce) for recruitment and retention practices yielding great results as well as tools, resource materials and more!

LeadingAge®

## Workplace Policies to Prevent Harassment Claims

**Insight for business owners and risk managers— provided by Cool Insuring Agency, Inc.**

While an employer's hiring and firing practices may present the greatest risk for litigation, lawsuits based on a company's employment practices can happen for many reasons. Poorly written policies or a manager's style can embroil a business in the complaint of a single employee.

Workplace harassment can come from a lack of managerial action as easily as from offensive behavior. A company's risk level is reduced when employees have a solid understanding of company policies, as well as employees' rights and responsibilities. It is the employer's legal duty to communicate workplace conduct policies and to ensure every employee understands and adheres to them.

### Harassment

Workplace harassment is one of the most difficult risks for an employer to control. Whereas most forms of litigation are based on claims of deceitful or improper

actions by company management, harassment suits usually seek to blame management for the ignorant, inappropriate or hateful actions of their employees.

Harassment is any form of malicious or exploitative behavior that alienates or damages an individual to the point of affecting employment conditions. Harassment can be caused by co-workers or managers, either

individually or in groups. When the harassment is pervasive or repeated, the situation creates a hostile work environment.

No matter what party is responsible for the harassment, the employer could be implicated in an employee's complaint. While it may be difficult for an isolated incident of co-worker harassment to be blamed on management, every instance of harassment must be regarded as extremely serious. Managers are responsible for promptly and thoroughly investigating and documenting all cases.

### Types of Harassment

Though harassment comprises a variety of offenses, one of its more common forms is sexual harassment. While there are blatant acts of sexual harassment (threatening to fire subordinates if they do not grant sexual favors; an openly discriminatory system of promotion and pay), some less aggressive forms can be the result of an employee paying too much attention to a co-worker or an improper joke that had no direct target.

What constitutes as sexual harassment is not always clear to people. Opinions on offensive behavior vary widely, and courts often have to rule on what is defined as normal behavior. Generally, if an employee feels uncomfortable or harassed, he or she should report it immediately so the offensive behavior can be stopped.

*Opinions on offensive behavior vary widely, and courts often have to rule on what is defined as normal behavior.*

(See *Workplace Policies* on page 6)



## Workplace Policies ... (Continued from page 5)

General harassment claims are as serious as sexual harassment. Biases can easily result in the exclusion of a co-worker or create favoritism for similarly minded employees. Managers should not tolerate harassment and should take steps to counsel individuals who display signs of discriminatory behavior based on race, ethnicity, disability or religion. Discrimination based on religion can be particularly difficult to handle; it is often visually indiscernible, and co-workers may feel they have religious superiority or no reason to be considerate of another person's beliefs.

Workers should feel that they can report harassment without any threat of repercussion. At least two channels for reporting harassment should be set up for situations where one is compromised or directly connected to the harassment. If employees do not feel they can report harassment safely, managers may not be aware there is a problem until litigation for a hostile work environment and negligent management is filed. Workers should be trained to recognize harassment of co-workers and be instructed to treat offenses seriously.

Employers can be held liable for harassment that happens outside the workplace. Job-sponsored events are often considered as being under a company's liability. Although harassment completely outside of any work-related functions is not the company's responsibility, employers should be open to receive reports of any harassment incidents between two employees and speak with the offending party. While an employer cannot reprimand employees for actions performed in their free time, he or she can remind them of the company's no-tolerance policy for similar actions in the workplace and, if necessary, separate the employees involved in the situation.

An employer can take proactive steps to help prevent harassment and negligence litigation, which includes employee training, signed documentation of the training, and an agreement of understanding and willingness to comply with company standards. Training should happen on a regular basis, not just when employees are hired. Demonstrating and reminding workers of the severity of harassment can keep adverse actions from occurring and can demonstrate in court that managers made genuine preventive efforts.

### Necessities of a Harassment Suit

While it is difficult to eliminate the possibility of individual acts of harassment, an isolated, uncharacteristic action by a single employee is not likely to result in a lawsuit against the entire company. Noncriminal harassment from a co-worker is not grounds for a lawsuit; harassment claims typically target the employer.

Handbook policies and managers are representatives of a company and its culture. If either causes an employee to be ignored, punished or fired for a "protected attribute," it will be viable grounds for a harassment case. To minimize this risk, companies must have trustworthy individuals in positions of authority and establish clear, unbiased handbook policies.

Cases of hostile work environments are easier for employers to avoid. Employees claiming a hostile work environment typically must show that harassment 1) occurred repeatedly,

*Demonstrating and reminding workers of the severity of harassment can keep adverse actions from occurring and can demonstrate in court that managers made genuine preventive efforts.*

(See *Workplace Policies* on page 7)

## Workplace Policies ... (Continued from page 6)

2) was not condoned by the employee in any way, 3) targeted a “protected attribute,” 4) was allowed by the employer, 5) interfered with job functionality, and 6) did not cease after appropriate actions by the employee.

Typically, a claim of a hostile work environment succeeds only if the claimant first made his or her employer aware of the situation and the employer failed to take appropriate steps to correct the problem.

Additionally, employees cannot claim that they were discriminated against simply because a manager or co-workers didn’t like them for personal reasons. However, employers or HR representatives receiving complaints should encourage individuals to be cordial and work well together despite personal attitudes. A targeted employee could assume (and therefore allege) that he or she is disliked because of a protected attribute. Employees should be trained on the aspects of a hostile work environment and behaviors that will not be tolerated in the workplace.

Employers should recognize that being able to prevent harassment litigation from being successful does not prevent the expensive litigation from occurring. Companies and managers take every step possible to keep employees from feeling harassed. Goodwill toward employees and an effort to accommodate concerns can prevent a host of legal issues. Most lawyers will not accept plaintiff cases unless an employer has disregarded the concerns of an employee.

### Negligence in Hiring

There are situations in which an employer can be sued for negligence after a first incident of co-worker harassment. If a new employee is accused of physical harassment and it is discovered that he or she has been reported or arrested for similar behavior prior to being hired, a plaintiff could claim the employer showed negligence in hiring. Employers should do thorough background checks on job candidates before hiring to reduce this risk.

### Documentation

Proper action by managers and HR representatives is of little value if it is not properly documented. If a suit is filed, the employer will need to provide proof of the facts pertaining to the suit. This may include proof of policies, training and management’s response to the complainant’s original complaint. An employer needs solid proof that its managers took steps to prevent problems and inform employees about their rights. In addition, the employer must prove that when problems occurred, management responded promptly and appropriately.

The employer should have policies, practices and formal documents for handling complaints; every complaint should be logged and investigated using established methods. A separate and confidential file must be kept, which includes all

*Employers should do thorough background checks on job candidates before hiring to reduce this risk.*



## Workplace Policies ... (Continued from page 7)

documentation and notes pertaining to the complaint. The documentation should include a statement relevant to how the complaint was resolved and the steps that were taken to ensure the situation will not recur.

Having employees read and agree to company policies provided in an employee handbook is a key method a company might use to protect itself and educate its workers. Handbooks should be written carefully and kept up to date. They should include policies as well as the employees' responsibilities and rights. Managers should be subject to the handbook as well and carry out all investigations and evaluations with the rules of the handbook in mind. Handbooks must comply with local, state and federal laws. The employer may wish to have the handbook reviewed by legal counsel.

While not all risk of harassment complaints can be eliminated, well-written policies, management and employee training can lessen their occurrence.

Many employers carry liability insurance that can mitigate expenses when unavoidable claims are filed. Contact Cool Insuring Agency, Inc. to find out more about liability coverage. 🌱

If you need help implementing a program, call John Snow at Cool Insuring: 800 233-0115 or email: [jfsnow@coolins.com](mailto:jfsnow@coolins.com).

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## Meet Meg Carr Everett

### Community Services Policy Analyst

#### Describe your role with LeadingAge New York?

I have joined LeadingAge New York as the new community services policy analyst. I will be working with the Home and Community-Based Services Cabinet and its membership to forward and support our home care provider programs, Naturally Occurring Retirement Communities (NORC), hospice, social services and aging programs. I am happily delving into the issues head first so that I can be a strong resource for members and I look forward to advocating on their behalf to forward these rapidly developing provider settings.

#### How does your education and experience inform this role?

I have regulatory and legislative experience from my days working for a large Albany lobbying firm and the Adirondack Mountain Club which will lend a hand in allowing me to help position our Community Service lines before the State. In addition, over the last two years I had the pleasure of working with Anne Hill and the Adult Day Health Care Council which gives me a good foundation from which to work.

#### What can you bring to the new role that is unique?

Recently, I worked as an education consultant with a community foundation serving the Berkshires and eastern New York. The position required a similar “diving in” of sorts to learn issues, network with others in arts education, develop programs and communicate and create support. This experience translates well to any position and I’m happy I can tap into it for LeadingAge NY.

#### What would surprise people about you?

I have a pretty decent singing voice.

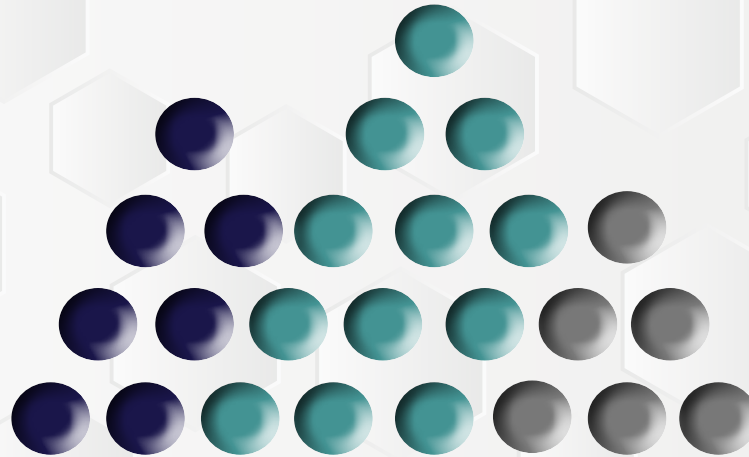
#### What do you do for fun?

I love the outdoors. I enjoy hiking, XC, downhill and back country skiing, camping, canoeing – anything where there’s a little risk and adventure involved. I also love working the land. I keep honeybees, chickens and enjoy tapping our trees to make maple syrup in the winter. 🍷





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## LeadingAge Western New York (WNY) Announces Board of Directors

Colleen Bullion, administrator of Ken-Ton Presbyterian Village, Kenmore, has been elected **president of the board of directors** of LeadingAge Western New York for a two-year term.

Bullion has more than 30 years of experience in the long term care profession and is a registered nurse. She is a resident of Tonawanda.

### Other officers of the board are:

**President-elect:** Courtney Fasolino;

**Treasurer:** Kelly Voigt of Fallon Health Weinberg, Amherst;

**Secretary:** Patricia Weeks O'Connor of Mercy Skilled Nursing Facility at OLV, Lackawanna.

Karen Zmich of United Church Manor, West Seneca, will continue to serve on the board as **immediate past president**.

### Also joining the board as representatives are:


**Nursing Home Council:** Matt MacDougall of Weinberg Campus and Tom Bloomer of Brothers of Mercy;

**Adult Care Facility Council:** Michael Helbringer of Bristol Village and Amy Hashemi of Weinberg Campus;

**Housing Council:** Martha Prinzbach of Baptist Manor and Kathleen Haggerty of Jewish Federation Apartments;

**Home and Community Services:** Colleen Osborn of Schofield Home Health Care Services;

**Members-at-Large:** Isadore DeMarco of Canterbury Woods and Darlene Crispell of The GreenFields.

LeadingAge WNY represents more than 60 not-for-profit providers of healthcare and residential services for seniors and adults throughout Western New York. These providers offer skilled nursing care, assisted living, rehabilitation care, home health care, independent living and associated community services. 

## Announcing

## New Online Course

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### Plan to Elevate Your 5-Star Rating for the New Year

Learn About Quality Apex, LeadingAge New York's NEW Premiere Quality Improvement Tool

By, Marguerite Carroll and Jacqueline Colafemina

Are you restricted on your budget for the upcoming year or quarter? Are you looking for ways to boost your facility's performance or 5-star rating? LeadingAge New York is proud to announce the launch of Quality Apex to ensure that every facility has an affordable option to help them reach the highest standards in quality outcomes.



*Quality Apex will show each facility where they need to improve to receive or maintain their highest 5-star rating.*

For an annual subscription fee of only \$850 for members, users will gain access to an online suite of tools designed to manage, assess and improve their 5-star rating. The Quality Apex platform analyzes REAL TIME MDS 3.0 data to maximize reimbursements, audit for coding accuracy, manage risk and assist direct care staff with developing effective individualized care plans. Quality Apex will show each facility where they need to improve to receive or

maintain their highest 5-star rating.

Receiving a better than average 5-star rating has never been more important to nursing homes. A facility may not be able to obtain sufficient referrals or receive Medicare and Medicaid funding in the future if they do not have at least a 3-star rating. These ratings are increasingly used by consumers, regulators, insurers and other payers and provider networks to select which facilities they will consider for partnering. To learn more about the Quality Apex product, contact Marguerite Carroll at 518.867.8383 ext. 108, or [mcarroll@leadingageny.org](mailto:mcarroll@leadingageny.org), and get ahead of the curve for the New Year. 📺

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Jan. 23 – Running and Evaluating a Successful CNA Training Program

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QUALITY OF LIFE SERVICES



Ami Schnauber

## 2018 Sneak Peak: A Tumultuous Year Ahead

Federal tax reform. Medicaid Block Grants. \$4 billion state budget deficit. Democratic unification in the State Senate. Staffing ratios. Medicaid cuts.

All indications point to 2018 shaping up to be a turbulent year for advocacy and with a slew of potential damaging cuts and mandates for long term care programs and providers.

### Federal Outlook

On the federal level, tax reform proposals will make it harder to build affordable senior housing, retirement communities and renovate health care facilities. The elimination on tax-exempt bond funding will further limit the State's ability to move forward with health transformation grants.

Congress is also continuing its attempt at reforming or overturning the Affordable Care Act. Such proposals have contemplated the inclusion of Medicaid Block Grants to the states. Given New York's generous Medicaid benefits and large number of enrollees, Block Grants would mean significantly less money from the federal government. The only way to manage such a significant loss of money is through changes in benefits and eligibility.

### State Outlook

Back in New York, the State is estimating a more than \$4 billion budget deficit for the 2018-2019 state fiscal year. We expect to see significant Medicaid cuts in the Governor's proposed budget next year and will need to be prepared for a big budget fight.

Complicating the political landscape is the recent unification of the State Senate Democrats. For the past several years, the break-away Independent Democratic Conference (IDC) has worked with the Senate Republicans to share power in the Senate. Just recently the IDC leader and the Senate Democratic leader agreed to a plan that would unify the democrats to take control of the Senate. The plan is partly dependent on the success of the democrats in upcoming special elections and would not take effect until after the April budget deadline.

A democratic Senate could have a big impact on the success or defeat of nurse staffing ratios legislation. While the bill passed in the Assembly last year it stalled in the Senate. A democratic majority may have the votes to move the bill to the floor and pass it.

### Leading Age NY Priorities

There are many priority bills that we will be pushing in the upcoming legislative session. All are aimed at trying to meet a growing demand of an aging baby boomer population, delaying or eliminating the need for seniors to go on Medicaid or unnecessarily move to a higher level of care, as well as initiatives that would make providing long term care more efficient.

*We expect to see significant Medicaid cuts in the governor's proposed budget next year and will need to be prepared for a big budget fight.*

(See 2018 Sneak Peek on page 17)



## **2018 Public Policy Agenda**

LeadingAge New York will work on the state and federal level to ensure funding and policies that support long term/post-acute care (LTPAC) and senior services providers, focusing efforts on the areas identified below.

### **All Long Term and Post-Acute Care Providers and Plans**

- Advocate for funding to address impact of employer mandates including increased minimum wage, 24 hour/live-in requirements and call-in pay.
- Advocate for flexible operating certificates, staff credentials and reimbursement to creatively serve seniors and individuals with disabilities in various settings, taking full advantage of current infrastructure.
- Support viable value-based payment (VBP) models, data sharing and stimulus VBP funding for managed long term care (MLTC) plans and providers that serve Medicaid beneficiaries.
- Focus on implementation of managed care initiatives relative to seniors and persons with disabilities, including payment policies, regulatory relief and smooth transition of populations and benefits into managed care.
- Advocate for expansion of the continuing care workforce and support efficient utilization of direct care workers, including allowing medication technicians, funding education and training and permitting cross-certification.
- Advocate for LTPAC infrastructure investments in building upgrades, restructuring of services, health information technology and health information exchange to support VBP and the "Triple Aim."
- Work with DOH to ensure survey consistency across regions and service lines, and advocate for quality control in the survey system.
- Advocate with the Congressional Delegation to oppose block grants and ensure any Medicaid/Medicare reform efforts do not negatively impact providers.
- Work to minimize the impact of federal tax reform on providers, including tax-exempt bond financing, medical expense deductions and charitable contribution deductions.

### **Adult Care Facility/Assisted Living**

- Increase the state portion of the SSI Congregate Care Level Three Rate.
- Work to prepare Assisted Living Programs (ALPs) to contract with MLTC and PACE plans in the future, including clarifying medical equipment reimbursement, rationally expanding capacity and ensuring the HCBS settings rule does not limit access to services.
- Enhance the role of the nurse so that ACF/AL providers with nurses can opt to provide nursing services directly.
- Advocate for regulatory reform across settings to update, consolidate and simplify operating requirements.
- Advocate for expanded access to assisted living for low-income people with dementia.

### **Affordable Housing**

- Advocate for a new Resident Service Coordinator Program to replace the dormant Resident Advisor program to support and expand the network of service coordinators in senior housing statewide.
- Advocate for allocation of substantial rental assistance for seniors statewide to offset the lack of new HUD 202 housing units.
- Support the Independent Senior Housing Freedom of Choice Act, which would protect the rights of elders living in congregate senior housing to receive services from providers of their choosing.
- Advocate for a new investment in the HUD 202 program, in the form of capital advances and rental assistance contracts, to meet the growing need for affordable independent senior housing.
- Support allowing 202/PRAC properties to participate in the Rental Assistance Demonstration (RAD) program, which would allow aging senior properties to leverage new sources of private capital for modernization.

(See 2018 Public Policy Agenda on page 18)

## 2018 Sneak Peak (continued from page 15)

**Role of the Nurse in the ACF:** Many adult care facilities in the state currently employ nurses, but their residents are not able to fully benefit given restrictions on the duties the nurses can perform. Currently, these professionals are permitted to provide nursing services only to residents of Enhanced Assisted Living Residences (EALRs). Only 10 percent of the total licensed adult care facilities in the state are also licensed as EALRs. Unfortunately, this means that capable nurses working in these settings can't provide services to residents; instead, a third party must be brought in to serve the resident. This limitation prevents nurses from providing services that would result in better health outcomes for the resident and support end of life care. A.2736-A (Gottfried)/S.4398-A (Hannon) would allow adult care facilities to directly employ LPNs or RNs to provide nursing services.

**Service Coordinators in Senior Housing:** LeadingAge New York is asking that next year's Executive Budget include a \$10 million, five-year investment in the Resident Service Coordinator Program. This \$10 million would be used in conjunction with New York's historic commitment of \$125 million to senior housing and would create a very cost-effective model for seniors to age in place, either in the new housing constructed for them or in the preexisting housing where they reside. The model would also result in savings to the state's Medicaid program by keeping low-income seniors out of more costly levels of care, such as assisted living or nursing homes.

*While the number of CCRCs has grown considerably across the nation, only 12 CCRCs are currently operating in New York.*

**CCRC Revitalization:** Continuing Care Retirement Communities (CCRCs) provide a full range of services including independent housing, Adult Care Facility (ACF)/assisted living, and nursing home care to residents in a campus setting as their needs change. While the number of CCRCs has grown considerably across the nation, only 12 CCRCs are currently operating in New York. Comprehensive statutory and regulatory reforms are needed in order to modernize the CCRC laws in New York and eliminate barriers to their development, expansion, and efficient operation. A.6450 (Schimminger)/S.5172 (Hannon), the CCRC Revitalization Act, will ensure that this important long term care model is available to seniors in New York.

**SSI increase for ACF:** Currently, there are approximately 13,000 aging New Yorkers who rely on Congregate Care Level 3 Supplemental Security Income (SSI) to pay for the services they receive in Adult Care Facilities (ACFs) and assisted living settings, at a rate of just over \$40 per day per person. This falls about \$30 short of the average cost of providing ACF services, and as the minimum wage mandate is phased in, this gap will only grow. If ACFs close or cannot afford to continue to serve SSI/Medicaid-eligible seniors, more of these individuals will be placed in nursing homes at a higher cost to the state. Legislation that would increase the SSI rate by at least \$20 per day per resident over five years, A.6715-B (Brindisi)/S.6732 (Serino), passed both houses in the 2017 Session and we are awaiting its consideration by the governor. If the bill is not signed by the governor we will be looking to get it included in the 2018-2019 state budget.

*(See 2018 Sneak Peek on page 19)*

## 2018 Public Policy Agenda

### Continuing Care Retirement Communities

- Advocate for passage of legislation to modernize outdated provisions of Public Health Law Articles 46 and 46-A to eliminate barriers to the development, expansion, and efficient operation of CCRCs in New York.
- Secure modifications to Insurance Regulation 140 from the Department of Financial Services to allow more flexibility in how CCRCs can invest their funds.
- Modify current requirements to allow CCRC residents who are discharged from a hospital on weekends or off-hours to be immediately admitted to the CCRC's nursing home/assisted living without patient assessment forms.

### Home and Community-Based Services

- Monitor carve-in of new benefits into the MLTC benefit package; advocate for additional or indefinite delay in carving in NHTD/TBI waiver services.
- Advocate for increased funding for the NORC/NNORC, Congregate Services for the Elderly and EISEP programs, and eliminate the county matching requirement for the added funding.
- Work to expand the funding and use of hospice and palliative care, including promoting improved integration of hospice and managed care.
- Support expanded access to telehealth services in the home through greater regulatory flexibility.

### MLTC/PACE

- Advocate for adequate and timely rates that accurately reflect the cost of existing and new benefits and wage/other mandates. Work to eliminate arbitrary caps and savings factors; ensure appropriate and more predictable risk adjustment and timely pool funding distributions.
- Push for implementation of separate nursing home "rate cell" or risk corridors/limited duration nursing home benefits. Work with DOH to ensure nursing home services are appropriately reflected in the rates, including adequate funding, timely updates for enrollment mix changes and a meaningful high cost nursing home pool.
- Ensure new benefits are fully-funded and implementation time frames are reasonable.
- Work with DOH and the State's actuary to ensure plan engagement in risk adjustment model development and dissemination of risk model information prior to the release of draft rates.
- Minimize duplicative reporting requirements and minimize administrative burden of funding pass-throughs.
- Support the expanded availability of managed care that combines Medicare-Medicaid services while ensuring a level playing field for existing plans; ensure plan and provider participation in development of new models.

### Nursing Home

- Oppose legislation setting arbitrary minimum staffing ratios in nursing homes.
- Establish an enhanced nursing home rightsizing program allowing conversions to ALP beds (in the absence of an ALP expansion program) and nursing home bed buybacks.
- Broaden the Restorative Care Unit demonstration or similar approaches to encompass additional facilities and Medicaid funding.
- Address any remaining barriers to implementation of the electronic prescribing mandate.
- Seek reform of the Informal Dispute Resolution process.

### Retirement Housing

- Work with market-rate senior living communities to better understand changing demographics and shifting preferences of future residents, to be better positioned for the future.
- Continue the statewide market analysis to help senior living communities plan for the future.
- Promote the "not-for-profit difference" that highlights the unique benefits that not-for-profit senior living communities offer residents.



## 2018 Sneak Peak (continued from page 17)

**Medication Aides:** Currently, there are a number of states that utilize medication aides in residential care facilities. In New York, the Department of Mental Hygiene created a program by utilizing an exemption in the Nurse Practice Act that allows for direct care staff, such as CNAs, to administer medication under the supervision of an RN. Under the exemption, a direct care worker is trained by an RN to administer medication and then pass a final examination, as well as a clinical practicum, to become certified as a medication aide. A.6891 (Jenne) would ensure that individuals receiving services in nursing homes, particularly those in less populated areas, would receive proper medication administration from certified aides, allowing more time for the RN to provide direct care at a more efficient rate. Quality of care for patients would increase, as would job satisfaction, wages, and staff retention.

**TBI-DD Integration:** In many areas of the state, particularly rural areas, there is a severe shortage of caregivers to support individuals with TBI in the community. Many times, this leads to the unfortunate placement of people into nursing homes. Oftentimes, these individuals could be served by local providers of developmental disabilities services, unless their TBI was suffered after age twenty-one. A.1425 (Jenne)/S.517 (Young) will allow these individuals to access developmental disabilities services, ensuring they can be served in a more community-based setting. Since individuals with TBI already receive Medicaid, this bill will provide no additional cost to the state and may in fact save Medicaid dollars by keeping individuals out of higher cost nursing home settings.

### The Way Forward

While we are expecting a difficult budget year and potentially chaotic Senate chamber, we believe that our agenda offers promise to the State by lowering overall Medicaid costs through offering efficiencies and building the capacity of community-based settings, allowing seniors to age in place and not unnecessarily move to a higher, costlier, level of care. As the State struggles to close their budget gaps, diverting resources to lower cost care options can offer opportunities to slow the growth of Medicaid.

The key to our success in reversing budget cuts, stopping onerous tax reform measures and nurse staffing ratios and advancing our priority legislation is speaking in one voice. LeadingAge NY has developed letters, posts and tweets related to all our priority issues. We are turning to the social media to amplify our voice and get public attention on these important issues. Our members can play a key role by sharing, posting and tweeting our message on their social media platforms as well.

LeadingAge NY will also be taking a more focused regional approach to advocacy in the new year. Many key legislators have ten or more providers in their community. A regional approach to advocacy will offer us an opportunity to get all of our members in the same room with their legislative representative. Meetings can include board members, residents, staff and vendors – providing a powerful and unified voice of community members to legislators. In the weeks ahead we will be working with our members to facilitate these regional meetings as the legislative session gets underway.

So strap on your seat belts and get ready for a crazy ride and plan to set aside some time for a busy year of advocacy.

*Questions? Contact Jeff Diamond, government relations analyst, at [jdiamond@leadingageny.org](mailto:jdiamond@leadingageny.org) or 518-867-8821.* 



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# THE POWER OF MEMBERSHIP

## 2017 accomplishments

**LeadingAge New York** and its members achieved several legislative, regulatory and policy victories in 2017. We also helped members navigate major change through education, technical assistance and business solutions. Among our 2017 accomplishments for members are the following:

### Budget and Legislative Successes

- Working with LeadingAge, engaged advocates in a “Save Medicaid” campaign to successfully oppose proposals to institute block grants or per capita caps.
- Fought off nurse staffing ratios for nursing homes.
- Secured legislative passage of a bill to expand ALP capacity based on future need.
- Forestalled elimination of bed hold payments to nursing homes for hospitalized residents.
- Secured Legislative passage of a measure to increase SSI payments for ACF residents.
- Led the NYS Affordable Senior Housing Coalition, which successfully advocated for \$125 million of capital funding for senior housing in the State's FY17 Budget.
- Helped defeat a proposal to require MLTC plans to use the State transportation broker for their enrollees.
- Worked with LeadingAge on successful “Save HUD 202” and “RAD for PRAC” Federal advocacy campaigns for affordable senior housing.
- Successfully defeated legislation that would have imposed onerous and costly requirements on ACFs.
- Engaged other affordable housing advocates in a campaign to fund a Senior Housing Resident Service Coordinator Program.
- Obtained a further extension of the waiver from electronic prescribing for nursing home residents.
- Relaunched the Young at Heart campaign to improve public perception of aging services providers, provide education on services offered and direct consumers to member organizations.

### Regulatory, Policy and Legal Victories

- Secured a partially favorable Appellate Division decision on Executive Compensation regulations, and successfully petitioned the NYS Court of Appeals to hear the case.
- Worked with DOH to update and consolidate ACF regulations, while opposing onerous proposals.
- Secured relaxation of EHR security requirements needed to qualify for health information exchange funding.
- Collaborated with the Alzheimer's Association on advocacy and free regional training for ACF members.
- Worked with the State on amending Regulation 140 to give CCRCs more investment flexibility.
- Led ongoing advocacy on the federal home and community-based settings rule and its impact on aging services.
- Successfully advocated for issuance of 2016 and 2017 IGT payments to public nursing homes.
- Advocated for sound and feasible Medicaid value-based payment policies and funding.
- Made progress on advancing nursing home quality pool adjustments.

- Distributed the third installment of the Universal Settlement to participating nursing homes.
- Filed an amicus brief supporting a member in a real estate tax exemption case.
- Published an educational fact sheet on the Nursing Home 5-Star Rating system.
- Issued a report touting the economic impact of CCRCs.
- Contracted with the Siena Research Institute to poll older New Yorkers on their knowledge and attitudes about aging services.

### Helping Members Thrive

- Offered over 35 conferences, seminars, trainings and audio conferences to members in all service lines on workforce issues, conditions of participation, payment reform and other topics.
- Held two first time events – the Recreation & Activity Professionals Conference and Retirement Communities Summit.
- Collaborated with the Healthcare Trustees of NYS, Albany Guardian Society and other groups to expand member educational offerings.
- Introduced a highly-rated Workforce Summit at the Annual Conference with 70 attendees.
- Held the 2017 CCRC Summer Summit, with a record number of attendees.
- Held a Symposium on Healthy Senior Housing to promote independent senior housing with services as a key aging-in-place strategy.
- Compiled and published a comprehensive nursing home salary report.
- Provided free Emergency Preparedness education to ACFs and nursing homes.
- Provided model policies and other templates free-of-charge to member nursing homes on the new federal conditions of participation.
- Through ProCare, offered on-site training through the ATI program to over 40 nursing homes, and consulting to over 30 facilities on surveys, quality and other areas.
- Increased the LeadingAge NY IGNITE Leadership Academy class size to 24, after receiving a record number of applications in 2017.
- Through Value First, conducted 81 free cost studies for LeadingAge members in New York and neighboring states to analyze potential group purchasing savings.
- Received 236 entries from a record 62 member facilities for the 2017 Art Exhibit Competition.
- Developed Quality Apex, a quality improvement tool for nursing homes.
- Updated Career Center to a new platform offering more member value for a lower price.
- Developed and released the SNF Trend Report as a sister report to the 5-Star Analysis Report.
- Deployed a new online conference application for member use at LeadingAge NY major conferences.

**For more information about all the benefits of membership call 518.867.8383.**

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# THE POWER OF MEMBERSHIP

## 2017 accomplishments

In 2017, LeadingAge achieved several legislative victories, greatly expanded the type and volume of toolkits to assist with day-to-day challenges and launched the Center for Workforce Solutions to address a dire need to sustain a quality workforce in our field.

You, as our members, were the core of the most humanitarian accomplishment of 2017: helping us to raise over \$500,000 to help member communities, their team members and residents who were affected by Hurricanes Harvey, Irma and Maria and the wildfires in California through the LeadingAge Disaster Relief Fund.

### THE IMPACT OF OUR COLLECTIVE VOICE

- Mobilized thousands of LeadingAge members and residents to help defeat legislation to cut Medicaid funding by hundreds of billions of dollars and cap the federal commitment to the program.
- Delayed for 1 year the imposition of civil monetary penalties for deficiencies cited under the CMS Rules of Participation Phase II as well as delayed the implementation of the HCBS Settings rule and Home Health Conditions of Participation.
- Launched a campaign to Save HUD 202 that included a rally at the U.S. Capitol with 1,100 residents of member communities and 5 members of Congress.
- Secured new construction funds for Section 202 Housing for the Elderly program for the first time since 2011. Expanded the senior housing preservation program in House and Senate funding bills as well as funding for full renewal of senior rental assistance contracts and service coordinators.

### CONTINUOUS EDUCATION AND INNOVATION

- Provided webinars that reached over 3,000 LeadingAge members on an array of regulatory topics.
- Reached over 500 members through our Leadership Academy and Leadership Educator programs.
- Launched the Workforce Innovator podcast to help members learn how their colleagues in the long term services and supports field are addressing workforce-related challenges.
- Unveiled our vision for the future of long-term services and supports in a new report: A New Vision for Long-Term Services and Supports.
- Developed articles and related resources to raise awareness and support for our vision of an America freed from ageism.

### STRATEGIC TOOLS AND INFORMATION

- Developed extensive toolkits on nursing home requirements of participation, a home health payment calculator, emergency preparedness regulation dashboard for home health, hospice, nursing homes, home health conditions of participation checklists and a quality score card.
- Launched the website for the LeadingAge Center for Workforce Solutions, highlighting promising practices in recruitment, retention and partnerships as well as tools, presentation materials and links to workforce reference materials.

- Published a paper that defines how an integrated service model is the ideal approach to addressing older adult needs and articulates why providers are best positioned to lead this model.
- Updated key tools to help housing members engage in advocacy, such as a HUD program budget chart, issue briefs and fact sheets on Low-Income Housing Tax Credit guidelines.
- Developed the Social Connectedness and Engagement Technologies Portfolio of Tools that includes a scan of the marketplace and guidance to make good business decisions about investing in these technologies.

### STRONGER TOGETHER: NETWORKING AND COLLABORATION

- Connected more than 8,000 people through our conferences (Annual Meeting, PEAK) and in-person events (CEMO, PINNACLE).
- Provided engagement points for nearly 9,000 staff at our member communities to share information, learn from peers, build relationships, and advise on policy and programs through listservs, networks, cabinets, councils, committees, and advisory groups.
- Expanded partnerships between CAST and a number of new technology Partners, Supporters, and LeadingAge Patrons.
- Conducted the first study to measure the sophistication of Electronic Health Records deployed by LeadingAge's largest 150 members in accordance with CAST's 7-Stage EHR Adoption Model.
- Co-hosted the Global Ageing Network conference, enabling attending LeadingAge members to learn how their colleagues in other countries address the challenges facing all providers around the globe.
- Updated CAST telehealth, medication management, and functional assessment portfolios with interactive guides, expanded product/vendor matrices and additional case studies to help members sort through a complex marketplace.



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*LeadingAge New York's* mission-driven providers of care, services and housing for aging New Yorkers are facing challenges to their business models from many directions. Payment, quality measures, aging infrastructure; the list is long but the game-changer will be managing workforce as the need for front line staff and leadership increases in relation to the number people needing care and services. The past couple of years has already produced a flurry of legislative and regulatory action that seriously impacts members' ability to manage workforce issues. This section of LeadingAge New York *Adviser* explores changes, challenges and ideas to manage change.

# Executive Compensation: A Complicated and Controversial Topic in New York State

*Dan Heim, executive vice president, LeadingAge New York*

**H**ow much not-for-profit (NFP) long term care and senior services organizations pay their executives is a matter that one would think would be left up to compensation committees and boards of directors, but is a far more complicated proposition in New York State. The State Legislature, State administrative agencies and the Office of the Attorney General each have something to say about executive compensation. For its part, LeadingAge New York is fighting to make sure any such requirements are reasonable and do not disadvantage our member organizations when it comes to hiring and retaining top executive talent.

Under long-standing authority, the Attorney General regulates NFP organizations and enforces the State's NFP Corporations Law. This law explicitly leaves decisions about the internal operations of private organizations – including setting executive compensation – to the governing boards of the organizations. The only limit imposed by the Legislature on NFP corporations in this law is that executive compensation must be reasonable and commensurate with the services performed.

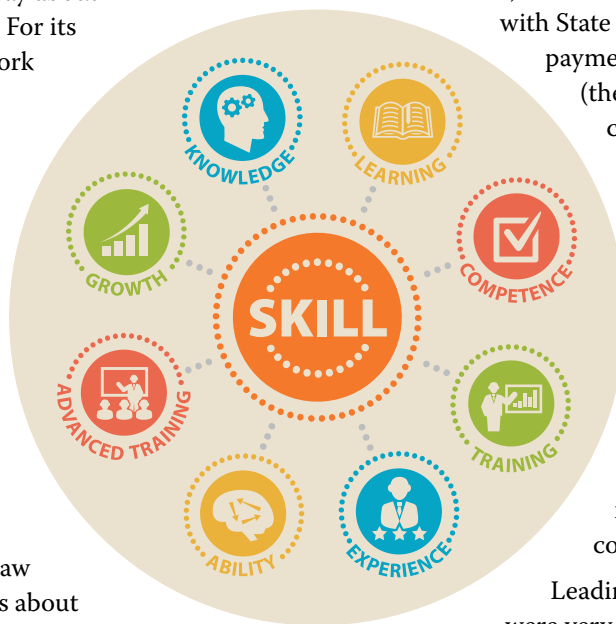
Governor Cuomo's efforts to limit executive compensation in for-profit businesses and NFP organizations began when he established the Task Force on Not-For-Profit Entities in August 2011, announced one day after a New York Times article exposed million dollar salaries for executives of a Medicaid-financed NFP serving the developmentally disabled. Over the next several months, the Task Force collected information from NFPs about executive and board member compensation levels.

In January 2012, the Governor issued Executive Order #38 (EO#38) directing State agencies that provide State funds or State-authorized

payments (e.g., Medicaid, various grants, etc.) for services to implement regulations limiting executive compensation of entities that receive these funds and payments. The Department of Health and other State agencies adopted final regulations which took effect July 1, 2013. EO#38 and these regulations create an annual "hard cap" of \$199,000 on compensation (salary and most benefits) of covered executives paid for with State funds or State-authorized payments. A secondary limitation (the "soft cap") limits annual compensation to \$199,000 from all funding sources, but allows for waivers of the cap for greater compensation if the amount paid is less than the 75<sup>th</sup> percentile of comparable executives, and has been approved by the governing board following a review of comparable pay.

LeadingAge NY and its members were very concerned about these regulations, and commented on them extensively throughout the adoption process. Among the points we made is that those NFP organizations that serve greater numbers of poor people are paid less than their actual costs by the State to provide these services. Those tend to be smaller in size are most disparately affected, and would be disadvantaged in recruiting and retaining well-qualified managers. We were also concerned that the regulations placed secondary requirements on State funds paid for services already rendered, and that the State was effectively trying to regulate providers' use of funding sources that do not even come from the State.

Our legal journey on challenging these regulations began in September 2013. Based on our concerns, we filed suit along with other provider groups in State Supreme Court, Albany County. In *LeadingAge New York et al v. Shah*, we argued that: (1) the EO#38 regulations conflict with existing State laws, including the NFP



*(continued)*





Corporations Law; (2) the State regulatory agencies engaged in policy-setting that would otherwise be reserved for the State Legislature; and (3) the EO#38 regulations are arbitrary and capricious.

State Supreme Court, Albany County issued a decision on our case in November 2015 upholding the hard cap on use of State funds or State-authorized funds to pay executive compensation, but struck down the soft cap limiting compensation paid from all funding sources. LeadingAge NY and the State both appealed this decision to the NYS Appellate Division, Third Department. The Third Department's June 2017 decision also annulled the soft cap, and upheld the hard cap. The decision by the Third Department conflicted with earlier decisions issued by downstate Appellate courts, setting the stage for review by the State's highest court, the Court of Appeals.

The Court of Appeals agreed to take on the LeadingAge NY case, and we are currently working with our legal counsels and the other provider groups involved to prepare all of the court filings by the March 2018 deadline. Oral arguments before the Court are expected soon thereafter. As we await review by the Court of Appeals, the EO#38 regulations and annual filing requirements imposed on affected NFP organizations remain in effect throughout the State, except for Nassau County where an earlier Supreme Court decision had stayed their implementation.

Despite the court rulings, affected LeadingAge member organizations have had to comply with these regulations in their entirety since 2013. This has required members to submit annual filings to the State, seek waivers of the compensation cap, pay for salary surveys, change their board approval processes and in at least some cases change their compensation practices. The effects that these regulations may be having on executive compensation in our field are hard to measure, but there's little doubt they are affecting recruitment and retention of experienced executives.

The State's official website, [www.executiveorder38.ny.gov/](http://www.executiveorder38.ny.gov/), provides information on the EO#38 regulations and associated filing requirements. LeadingAge NY's website, [www.leadingageny.org](http://www.leadingageny.org) includes guidance on the regulations and various updates on the status of EO#38 litigation.

## A Recruiter's Take on Compensation

*Lisa DeSimone Arthur, senior associate, Witt/Kieffer*

In addition to regulatory issues, a host of marketplace challenges influence executive compensation for LeadingAge members and other not-for-profit senior care organizations. The market for CEO talent is tight. Top executives have the advantage in salary negotiations and conditions of employment.

From my vantage point as a search consultant, the following factors influence compensation arrangements:

1. **It's a different market today.** Many LeadingAge organizations have been blessed with long-tenured leaders who have been in their roles for decades. It's important to recalibrate expectations at the start of a recruitment of a new CEO.
2. **Regulatory uncertainty factors in.** Executive candidates understandably may steer clear of positions for which compensation is heavily regulated or the regulatory outlook is uncertain.
3. **Specializations can bump up compensation.** Some organizations are looking to recruit executives with areas of strategic expertise—with experience in the payer market, homecare specialty or IT expertise. These “must have” or “nice to have” expectations usually come with a premium in terms of salary. After all, fewer qualified candidates are available.
4. **It's still about mission.** Executive success in the long term care and senior services spaces is ultimately about resonance with and commitment to the organization's distinct mission. Salary is one component of what motivates talented CEOs to seek jobs in this industry.

# Under Pressure:

## Examining Five New Wage and Hour Mandates and the Impacts on Employers

By: Joseph M. Dougherty, Esq. and Benjamin M. Wilkinson, Esq. Hinman Straub P.C.

The last three years have seen significant changes to the Federal and state laws and regulations that determine employee compensation. The changing landscape of the wage and hour law has resulted in increased pressure on employers in the long term care field to find ways to manage their workforce and remain in compliance with Federal and State laws. Many employers are left wondering how they will keep up with the constantly evolving wage and hour law. This article is intended to highlight five (5) key areas that are affecting or will affect your workforce in the near future.



### New York State Minimum Wage

In early 2016, New York passed legislation which phased in significant increases to the State's minimum hourly wage. As of December 31, 2017, New York requires that all employees receive at least \$10.40 per hour. The minimum wage varies based on location of work performed. The following chart provides an overview of the increases to the basic hourly minimum wage over the next several years:

#### Basic Minimum Hourly Wage

Effective Date	NYC 11 or more	NYC 10 or less	Nassau, Suffolk & Westchester	Rest of State
12/31/16	\$11.00	\$10.50	\$10.00	\$9.70
12/31/17	\$13.00	\$12.00	\$11.00	\$10.40
12/31/18	\$15.00	\$13.50	\$12.00	\$11.10
12/31/19	\$15.00	\$15.00	\$13.00	\$11.80
12/31/20	\$15.00	\$15.00	\$14.00	\$12.50
12/31/21	\$15.00	\$15.00	\$15.00	TBD

With December 31, 2017 right around the corner, employers should be aware of the increased minimum wage requirements and adjust their employee's hourly rates of pay to remain in compliance with New York law.



### Overtime Exemptions

As many employers are aware, Federal and New York State regulations allow employers to exempt employees from the payment of overtime under certain circumstances. The Fair Labor Standards Act ("FLSA") sets forth the overtime rules on a Federal level while New York has a parallel set of regulations that closely follow the overtime provisions and exemptions set forth in the FLSA with the exception of the qualifying salary threshold. Recently, there have been proposed changes to the FLSA and significant changes to the New York regulations on overtime exemptions that affect millions of employees.

#### **a. Fair Labor Standards Act Overtime Exemption**

The FLSA excludes certain executive, administrative and professional employees from overtime requirements, which are commonly referred to as the "EAP" or "White Collar" exemptions. Pursuant to the FLSA, in order to qualify for an EAP overtime exemption, employees must: (1) be salaried; (2) be paid more than the weekly income threshold ("EAP Threshold"); and (3) primarily perform executive, administrative, or professional duties (the "Duties Test").

On May 18, 2016, the United States Department of Labor ("USDOL") implemented revisions to the FLSA overtime exemption law (the "Final Rule"). These revisions doubled the EAP Threshold salary necessary for a worker to be exempt from overtime regulations. *On December 1, 2016, the Final Rule would have increased the EAP threshold from \$455 per week, or \$23,660 annually, to \$913 per week, or \$47,476 annually.*

Following the issuance of the Final Rule, the State of Nevada and twenty (20) other states filed a lawsuit against the USDOL in the United States District Court of the Eastern District of Texas challenging the validity of the Final Rule.

(continued)



On November 22, 2016, the Court granted a nationwide preliminary injunction and stayed the implementation of the Final Rule. The Court held that the USDOL exceeded its authority and ignored Congress's intent of the FLSA. On August 31, 2017, the Court ruled that the Final Rule was invalid. On October 30, 2017, the Department of Justice ("DOJ"), on behalf of the USDOL, appealed the Court's decision that the Final Rule is invalid. At the same time, the DOJ has indicated that it will file a motion with the Court to "hold" the appeal while the USDOL undertakes further rulemaking to determine its own EAP salary threshold.

Thus, it is unlikely that the changes to the FLSA that increased the EAP threshold to \$913 per week will go into effect as originally drafted. Nevertheless, employers must continue to monitor this space for new developments as any new rulemaking by the USDOL could have a significant impact on your workforce. Further, while the increase to the FLSA EAP threshold has yet to take effect, this development does not affect the New York State Department of Labor's recent changes to New York's overtime exemption regulations, as set forth below.

**b. New York State Overtime Exemption**

New York overtime rules generally follow the FLSA. However, New York does not require any minimum weekly salary amount for the professional employee exemption.

On December 28, 2016, the New York State Department of Labor ("NYSDOL") finalized regulations to increase the income thresholds that allow employers to classify employees as exempt from paying overtime ("NY Final Rule"). The adopted changes to New York's regulations on overtime were effective December 31, 2016 and apply to those in the long term care field.

The NY Final Rule increases the income threshold for the executive and administrative exemptions based on the location of an employer, similar to the recently enacted New York Minimum Wage changes, as follows:

Minimum Weekly Salary For Overtime Exemption					
Effective Date	FLSA	NYC 11 or more	NYC 10 or less	Nassau, Suffolk & Westchester	Rest of State
12/13/16	\$913.00*	\$825.00	\$787.50	\$750.00	\$727.50
12/31/17	\$913.00*	\$975.00	\$900.00	\$825.00	\$780.00
12/31/18	\$913.00*	\$1125.00	\$1012.50	\$900.00	\$832.00
12/31/19	\$913.00*	\$1125.00	\$1125.00	\$975.00	\$885.00
12/31/20	\$913.00*	\$1125.00	\$1125.00	\$1050.00	\$937.50
12/31/21	\$913.00*	\$1125.00	\$1125.00	\$1125.00	\$937.50

\*On hold pending appeal and/or further rulemaking

Thus, the NY Final Rule significantly increases the overtime exemption threshold for New York employers over the next few years. As of December 31, 2017, in order to continue to exempt employees from overtime, employers must verify that each exempt employee will meet the salary threshold depending on the location of the work performed. Two memoranda outlining the Federal and New York State overtime exemptions in additional detail are available [here](#).

(continued)

## Under Pressure ... Continued



### New York Paid Family Leave

On April 4, 2016, Governor Andrew Cuomo signed the New York Paid Family Leave Benefits Law (“NYPFL”). Once fully implemented, the NYPFL allows eligible employees to take up to 12 weeks of paid family leave. The PFL will go into effect on January 1, 2018.

The NYPFL allows employees to take a paid leave of absence: (1) to provide care to a family member due to the family member’s serious health condition; (2) to bond with a new born child during first year of child’s life or first year of adoption of child; and (3) for any qualifying reason as provided for under the Federal Family and Medical Leave Act arising from the employees’ spouse, domestic partner, child, or parent being on active military duty. In contrast with Federal Family Medical Leave Act (FMLA), the NYPFL does not allow the employee to take paid leave for his or her own medical condition or circumstance.

The NYPFL entitles employees to full job reinstatement once any employee returns from paid family leave. In addition, an employer may not discriminate or retaliate against employees for taking or inquiring about paid family leave.

The NYPFL provides that both full-time and part-time employees are eligible for paid family leave benefits. Full-time employees (those who work more than 20 hours per week) are eligible for leave benefits after 26 consecutive weeks of work for the employer. In contrast, part-time workers (those who work less than 20 hours per week) are eligible for leave benefits once they have worked 175 days in such employment.

The NYPFL sets forth a maximum number of weeks that eligible employees will be entitled to paid leave for any 52-week calendar period. In addition, the employee will receive a specified percentage of their average weekly wage while on leave. Both the number of weeks available to employees and the maximum weekly benefit will be gradually increased over the next several years. For example, in January 1, 2018, employees will be eligible for a maximum of 8 weeks of benefits

and they will be paid 50 percent of the employee’s average weekly wage—capped at a maximum of 50 percent of the statewide Average Weekly Wage.

The Average Weekly Wage (“AWW”) is determined annually following a comprehensive analysis by the NYSDOL. The NYSDOL computed the AWW for calendar year 2016 to be \$1,305.92 per week. The NYSDOL makes its determination based on the prior calendar year wages reported by the Commissioner of Labor to the Superintendent of Financial Services on March 31 of each year. Thus, in 2018 the maximum paid benefit to all employees will be \$652.96 per week. The following chart illustrates the increase in maximum available benefits for the NYPFL over the next several years.

### **NYPFL Implementation of Benefits**

Year	Maximum Weeks of Benefit	% of Weekly Wage Benefit	Max Weekly Benefit
2018	8	50%	\$652.96
2019	10	55%	\$718.26*
2020	10	60%	\$783.55*
2021	12	67%	\$874.97*

**\*Calculated using the Average Weekly Wage of \$1,305.92 released in March of 2017 for the year 2016. Thus, this number is subject to change based on the Average Weekly Wage (AWW) of subsequent years**

Paid family leave benefits will be financed by deductions from employee pay. No employer is required to fund any portion of the paid family leave benefit. Those funds will then be used to pay premiums on paid family leave insurance. The maximum employee contribution consists of 0.126 percent of an employee’s weekly wage up to the AWW. Thus, the maximum weekly employee contribution to paid family leave benefits is \$1.65 ( $\$1,305.92 \times .00126 = \$1.65$ ). On July 1, 2017, employers were permitted to collect weekly employee contribution for paid family leave for coverage beginning on January 1, 2018.

*(continued)*





The introduction of the NYPFL places a number of new requirements on employers. As referenced above, employers must obtain NYPFL insurance by either purchasing the insurance from an approved insurance carrier or self-insure. All insurance carriers that provide coverage pursuant to the New York Disability Benefits Law (“NYDBL”) must also provide NYPFL coverage. Employers should contact their NYDBL carrier prior to January 1, 2018 to discuss NYPFL coverage options.

In addition to requiring employers to purchase paid family leave insurance, the NYPFL requires employers to update their employee handbooks to include written guidance on paid family leave. The handbook must include all of the employee’s rights and obligations under the regulations, including information on how to file a claim for paid family leave. If an employer does not maintain an employee handbook, it is still required to provide written guidance to employees on the paid family leave benefits. In addition, employers must also post a notice concerning paid family leave in plain view where employees and applicants can readily see the notice.

Further, employers will need to develop mechanisms for when any portion of its workforce elects to take a paid family leave. The employer must manage the challenge of the employee’s absence while, at the same time, holding the employee’s position for their return. Employers are encouraged to look into temporary employees and cross-train employees so that they are prepared to fulfill a variety of positions as needed.

Employers will also face the additional hurdle of tracking the amount of leave utilized by an eligible employee. Employers must communicate with their employees and payroll systems to develop internal systems to record all paid leave taken by each employee under the NYPFL. Two memoranda providing further information on the NYPFL are available [here](#).

## 4

### 24-Hour Live-In Pay

In the last two years, a number of New York court cases relating to 24-hour “live in” home care attendants have generated considerable alarm, confusion, and anxiety regarding proper compensation of live-in caretakers. The primary issue is the applicability of the NYSDOL residential exception to the minimum wage law, which provides that residential employees need only be paid for 13 hours of every 24-hour shift (“13-hour rule”). Under the 13-hour rule, the employee must be afforded eight (8) hours for sleep, five (5) of which must be uninterrupted, and be afforded three (3) uninterrupted hours for meals.

Recently, two New York State appellate courts rejected the “13-hour rule” as applicable to home care non-residential attendants (home care attendants who maintain their own residence), concluding that these employees are entitled to be paid the minimum wage for all 24 hours of their shifts, regardless of whether they were afforded opportunities for sleep and meals.<sup>1</sup>

Understandably, these court rulings resulted in considerable fear that home care agencies would suffer from a tremendous financial strain as a result of being forced to compensate non-residential home care employees for 24-hours a day of work and incur significant liability from class-action lawsuits for past employee compensation.

(continued)



<sup>1</sup> *Tokhtaman v. Human Care, LLC et al.*, 2016 N.Y. Slip Op. 31606(U) (Sup. Ct. N.Y. Cnty. August 22, 2016), *aff'd*, 149 A.D.3d 476 (1<sup>st</sup> Dep’t Apr. 11, 2017); *Andreyeyeva v. New York Health Care, Inc.*, 45 Misc.3d 820 (Sup. Ct. Kings County Sept. 16, 2014), *aff’d* 153 A.D.3d 1216 (2<sup>nd</sup> Dept. Sept. 13, 2017); *Moreno v. Future Care Health Services, Inc.*, 2015 N.Y. Slip Op. 31752(U) (Sup. Ct. N.Y. Cnty. May 5, 2015), *aff’d* 153 A.D.3d 1254 (2<sup>nd</sup> Dept. Sept. 13, 2017).

## Under Pressure ... Continued

In response, on October 25, 2017, the NYSDOL adopted an emergency regulation, effective October 6, 2017, reaffirming the validity of the 13-hour rule. The emergency regulation amends the minimum wage regulations so that employers are not required to pay for meal periods and sleep times that are excluded from hours worked under the FLSA for a home care aide who works a shift of 24 hours or more. The emergency regulation provides that meal periods and sleep periods that are not compensable for FLSA purposes are also excluded from the calculation of hours worked in New York State.

The emergency regulation has been adopted on an emergency basis and will expire on January 3, 2018. The NYSDOL intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rulemaking in the State Register. The NYSDOL will likely continue to extend this regulation on an emergency basis until the permanent rule is adopted. A memorandum with more detailed information on the status of compensation to live-in home care attendants may be obtained [here](#).



### **Proposed New York Regulations on Call-In Pay**

On November 10, 2017, the NYSDOL announced a Proposed Rule on “call-in,” or “on-call” scheduling (the “Proposed Rule”). The Proposed Rule applies to most employees subject to the Minimum Wage Order for Miscellaneous Industries and Occupations (the “Miscellaneous Minimum Wage Order”), including those in the home care industry.

The Proposed Rule requires covered employers to either give significant advance notice of changes in employee schedules or pay additional amounts to employees scheduled to work on short notice. On November 22, 2017, the Proposed Rule was published in the State

Register and is subject to a 45-day comment period. The deadline for submitting comments to the NYSDOL on the Proposed Rule is January 8, 2018. Following the comment period, the Proposed Rule will then be subject to either modification or adoption as written.

Currently, New York’s rules on call-in pay state: “[a]n employee who by request or permission of the employer reports for work on any day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage.” This minimum payment is often referred to as “call-in pay.” Additionally, under current law, employers are generally free to schedule, and, when necessary, cancel shifts before employees report for work, without incurring any additional payment obligation.

The Proposed Rule would create a number of new circumstances where non-exempt employees will be eligible to receive “call-in” pay, including the following:

- “Call-in Pay” for Reporting to Work at the Employer’s Request or Permission. An employee who, by request of the employer, reports for work on any shift shall be paid for at least four (4) hours of “call-in pay.” Under the Proposed Rule, “call-in pay” for hours actually worked are compensated based on the employee’s regular rate of pay—not the minimum wage. Call-in pay for hours that are not actually worked must be compensated at the minimum hourly wage of the locality.
- “Call-in pay” for Unscheduled Shifts. The Proposed Rule states that a shift that is not scheduled at least fourteen (14) days in advance is an “unscheduled shift.” Where an employee “by request or permission of the employer” reports to work for an unscheduled shift, the employer must pay two (2) additional hours of “call-in pay.”

*(continued)*



- “Call-in Pay” for Shifts Cancelled on Less Than 72 Hours’ Notice. Where an employer cancels a shift within seventy-two (72) hours of the start of the shift, the employee shall be paid at least four (4) hours of “call-in pay.”
- “Call-in Pay” for Being On-Call. An employee who is required to be available to report for any shift must be paid for at least four (4) hours of “call-in pay.”
- “Call-in Pay” When Employees Must Call to Confirm within 72 Hours before Shift Start. An employee who is required to be in contact with the employer within seventy-two (72) hours of start of the shift to confirm whether to report to work must be paid for at least four (4) hours of “call-in pay.”

If finalized, the Proposed Rule will pose enormous administrative challenges for the long term care field due to the unpredictable nature of staffing needs. Long term care agencies are encouraged to submit comments to the NYSDOL regarding how the Proposed Rule will effected their industry by January 8, 2018. A more detailed memorandum on the Proposed Rule on call-in pay is available [here](#).

Hinman Straub P.C. is available to discuss any of these five (5) topics in further detail including their potential impact on your existing policies and procedures. If you have any additional questions, please contact Joseph M. Dougherty at 518.436.0751 or [jdougherty@hinmanstraub.com](mailto:jdougherty@hinmanstraub.com).

4815-4571-1704, v. 3







## Happy Staff Equals Happy Residents

**P**resbyterian Senior Care of Western New York, and all three of our Senior Living communities, know that our staff is the most important factor in the residents we serve living a fulfilled, happy and fun life. As many organizations in aging services know, it is not always easy to recruit and retain talent in the industry. We are lucky to have many long tenured employees with us, and they are our direct line to understanding how to recruit and retain talent. There are a few key factors we've identified, but the most important to retention is that staff need to connect to the mission of their work. In this industry, you are impacting lives every day, and not just the lives of your residents. Your impact ripples to their circles of friends and family. What we do is important work and when great staff is connected to that mission, they stay.



The question becomes, how do you connect your staff to the mission of your work? We find it happens through storytelling. Sharing the stories of the lives we impact is an integral component to connecting our staff to the mission. Staff does it every day, through of their roles. Connect to the people, to their meaning, and hope to honor them by doing what we do best, caring.

It is not always easy to explain this in the hiring process, to translate what the work experience will be for new hires. We often find that a missed opportunity to connect a new team member to this meaning becomes a loss to us. This is challenging, turnover is not easy for anyone, and change is not always welcome; but we know our task to connect staff to the meaning of their work is becoming more important, especially as the labor market change. Our goal is to make the work matter to our team members and to make sure they know they matter. It is by doing this that we will not only recruit and retain top performers but that they will care about the mission.







## A Powerful Tool for Finding and Filling Positions

**A**re you currently looking to fill a position from executive level to front line staff? Do you know about the LeadingAge New York Career Center? Career Center was recently upgraded giving members even more bang for their buck!

Most platforms charge a fee to post an ad to their site and then a separate fee for it to be included on other national job board sites. Career Center automatically sends your ad out to several different national sites when it is posted. You can even add a video that would highlight why an applicant should choose to work for you that can help a candidate remember your ad over others. These valuable tools are included as part of the base price!

Posting an ad to Career Center is simple. Using copy and paste drop boxes, simply fill in your information and view a sample of your ad. For convenience, you can also manage and modify previously used ads instead of building an ad from scratch every time. You can receive notifications

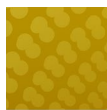
when an application is received and manage these with ease. There are also a variety of optional screening question that help you filter prospective candidates using brief questionnaires during the application process.

There are several levels to choose from that give the added benefit of featuring your ad on the Career Center home page as well as in the LeadingAge New York weekly newsletter, Intelligence, giving even more visibility. With more than 50 percent of job seekers looking for new jobs on their mobile devices, Career Center is intuitively designed for a seamless experience from any device without interruption. Also, the Career Center advanced job matching agent ensures that your ad will get to the right person.

LeadingAge New York Career Center is a simple, low-cost solution to finding and filling a job that gets results. Please contact Earl Gifford at: [egifford@leadingageny.org](mailto:egifford@leadingageny.org) or 518.867.8383 ext. 149 for more information.



# Parker Implements New Technology to Improve Patient Care and Reduce Stress on Personnel



**P**arker Jewish Institute for Health Care and Rehabilitation recently acquired state-of-the-art monitoring technology, designed to increase patient safety, reduce falls, bed sores/pressure ulcers, enhance quality of care and patient outcomes. Parker's new partner, EarlySense, offers a patient safety solution providing clinical personnel with the tools to continuously monitor two of the most critical predictors of patient adverse events - heart rate and respiratory rate - allowing clinicians more opportunities for early intervention.

Parker's new technology offers continuous and contact-free monitoring of a patient's heart and respiratory rates, as well as patient motion, thus enabling clinicians to intervene promptly by providing: early detection displays of vital sign trends and alerts when heart and respiratory rates are out of range (predictors of a potential deteriorating condition); fall prevention, with six levels of bed exiting sensitivity tailored for each patient, thus enabling nurses to be at the bedside before a resident has exited his or her bed; turning and positioning alerts, utilizing patient-specific repositioning frequency settings, as well as resident turn verification alerts.

The equipment entails a sensor placed under the resident's mattress, which is connected to a discrete processing unit behind the bed. Sensors send signals to this unit, providing continuous contact-free and alarm-free monitoring for patients. Assigned licensed nurses and certified nursing assistants on

the unit, in addition to nursing supervisors and medical attending, wear pagers that alert them when patients' heart and respiratory rates are sensed to be out of desired ranges as determined by the attending physician, and when a patient attempts to exit a bed or needs to be turned or repositioned. When a patient's alert is triggered and sensed, the system also alerts nurses on I-Pad devices and on a large computer screen which displays:

- Real time status displays of up to 26 patients.
- Visual and audio identification of potential critical events.
- A variety of patient management reports including nurse shift report and patient status report.
- Resident's continuous measurements and trends display.

Staff from EarlySense came on-site for a technology and clinical needs assessment during this past summer to make ready for the September launch. During the week of September 25th, EarlySense personnel were on-site to train CNAs, RNs, LPNs, physicians and other staff, and to install the new system. Actual go-live date was September 28<sup>th</sup>, but for now, this is still a pilot program and was only implemented in Parker's Three North West Wing (rooms 301 – 313). EarlySense remained on-site for a couple of days after the go-live date, to support Parker's staff while they learned the new system and be available as needed.



“The goal in securing EasySense technology is to enhance quality of care by better patient monitoring so that early intervention can take place. Early detection of patient deterioration in clinical care units is a top priority for all health care institutions, including skilled nursing facilities like Parker,” said Michael N. Rosenblut, Parker’s president & CEO. He explained that continuous monitoring is key in recognizing and quickly responding to early warning signs, which should enhance quality of care, plus reduce length of stay and costs. “Our ultimate objective is to reduce our hospital re-admissions,” Rosenblut added.

Since Parker implemented this project in September, early feedbacks from clinical staff indicate the technology is resulting in increased nursing assessments and intervention with the clinical teams. “Overall, it’s like a pair of extra eyes and ears for our staff,” said Colleen Ariola, Parker’s vice president of patient care services. “EarlySense is driving care to the bedside, enabling nurses and physicians to check-in on, and assess residents as alerted. The system even requires clinicians to turn off alarms only at the bedside while with patients; this is the opportunity they need to look for changes in the patient’s condition. The system also facilitated a reduction in noisy bed alarms, which can annoy patients, adding quality of life to their day,” she added. Ariola said the system is also

helping nurses be more clinically effective, enabling Parker to provide the best care to their population of fragile, older adults.

EarlySense also limits staff alarm fatigue, since it results in a lower alarm rate when compared with other systems. Continuous monitoring and accurate alarms helps staff prioritize their workload and manage time better, to provide appropriate patient care when needed. The end result is a reduction in pressure on staff and better staff retention.

Parker Jewish Institute is a leading provider of short term rehabilitation and long term care. At the forefront of innovation in patient-centered health care and new technology, the Institute is also a leader in teaching and geriatric research. Parker Jewish Institute features round-the-clock clinical teams and is nationally renowned as a skilled nursing facility, as well as a provider of community-based health care, encompassing Social Adult Day Care, Home Health Care and a Hospice Program.



*Nursing manager at Parker Jewish Institute examines functions of EasySense central display screen.*

## Purchasing Power in Practice

*Sarah Daly, Value First member liaison, NY & MA*

It is no secret that the not-for-profit provider world faces extreme funding and regulatory challenges. With increasing external pressures, many provider organizations find themselves strapped for cash and looking for ways to save money. For many, the visceral response to financial pressure is to cut down on unnecessary spending and purchases. For some members it means delaying renovations and cutting expenses and for others it may even mean staff cuts. While a natural reaction, it overlooks one of the most useful tools available to members: Group Purchasing Organizations.

A group purchasing organization (GPO) is an entity that helps organizations realize savings and efficiencies by combining purchasing volume and using that leverage to negotiate purchasing contracts with manufacturers, distributors and other suppliers. GPOs negotiate these agreements at scale and offer contracted pricing to participating organizations. With these vendor agreements, organizations can take advantage of good competitive pricing, without having to go negotiate with a vendor on their own.

There are several GPOs nationwide, many of which service niche industries. GPOs are particularly important to healthcare providers – such as hospitals and long term care providers – because these organizations require a wide variety of goods and services but don't generally have enough scale to negotiate competitive pricing on their own. With group purchasing, providers can obtain the right products at the best price. Some GPOs also offer value added services which may include technical assistance and procurement procedures.

Because most GPOs represent a niche market of similar organizations and provider types, they can also offer economies of scale to the healthcare supply chain. By aggregating the purchasing power of these facilities, GPOs help balance the negotiating equation between purchasers and vendors. Additionally, GPOs provide valuable cost-avoidance savings to providers by helping them standardize and streamline their purchasing, as well as reduce the number of staff needed to negotiate purchasing contracts.

A GPOs primary purpose is to negotiate good pricing on as many items as possible with a vendor. This translates into an organization's ability to exercise full purchasing freedom when placing orders. A GPO user has no obligation to purchase any given item on or off-contract. The organization exercises full discretion in making purchasing decisions even while being on a GPO contract. GPOs do not place any orders themselves. All purchasing operations remain in control of the provider organization.

In considering which GPO to choose, it is important to note that most are non-exclusive; meaning you are able to work with several purchasing services depending on which GPO offers a more competitive contract with a given vendor. Many GPOs also offer individual benefits and incentives through their program. For example, some GPOs offer unique rebates or rewards.

Increasingly, providers are relying on GPOs to help manage the complex system of purchasing. Many GPOs offer e-commerce solutions to help manage their purchasing. Others may provide training for facility staff to increase efficiency within their procurement process. Even with these added services that surpass the standard vendor agreements, most GPOs offer their membership at no cost to the provider.

(See *Purchasing Power* on page 46)

*With group purchasing, providers can obtain the right products at the best price. Some GPOs also offer value added services which may include technical assistance and procurement procedures.*

VALUE

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Choices ■ Solutions ■ Savings



## Purchasing Power ... (continued from page 45)

As organizations review their options in the group purchasing arena, it often seems like the program formats are too good to be true. Many wonder why the GPO exists or how these services are maintained at no cost to the provider. The answer is that an integral part of any group purchasing organization's business plan are the fees paid by participating vendors.

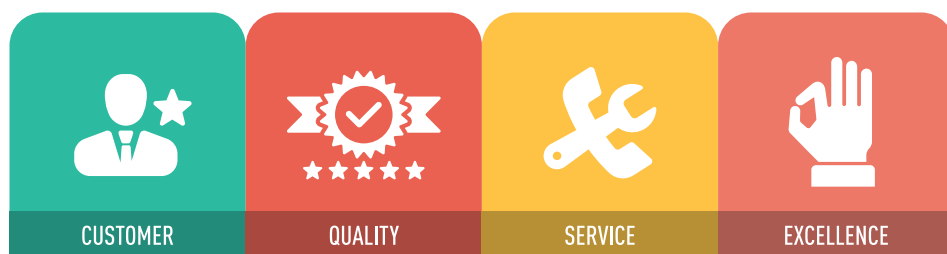
All vendors within a GPO supply chain pay an administrative fee to the GPO for marketing their program to a niche group of providers. Typically, the revenue and profits from this fee are returned to the owners of the GPO. For Value First, Inc., the owners are your national association – LeadingAge – and your individual state associations. So, another benefit, is that in the event that an individual provider finds Value First pricing the most competitive and advantageous to them, there is also the added benefit of providing non-dues revenue to their state association and supporting the work done there on their behalf as well.

The group purchasing industry is one that has flourished over the past 10-15 years. Today, providers have more options and resources than ever before when addressing vendor pricing and general purchasing. In an increasingly competitive industry, it is more important than ever that not-for-profit providers take advantage of all purchasing resources available to them. One key resource is GPO. 🌱

*For more information contact: Sarah Daly at 518-867-8383 ext. 160 or by email at [sdaly@leadingageny.org](mailto:sdaly@leadingageny.org).*

Value First, Inc. is a Group Purchasing Organization (GPO) owned by LeadingAge and twenty-five of its affiliates. As a GPO that's committed to your mission, Value First leverages the buying power of LeadingAge members across the country to get the best pricing on a comprehensive array of high-quality products and services.

*A GPOs primary purpose is to negotiate good pricing on as many items as possible with a vendor.*



# VALUE



## Minimum Data Set (MDS) 3.0 Accuracy:

Get This Building Block Wrong and There is No Reaching the Stars

*Susan Chenail RN, CCM, RAC-CT, senior quality improvement analyst, LeadingAge New York*

The Minimum Data Set (MDS) 3.0 has never been more important to the financial well-being of nursing homes. It has a major effect on Medicare and Medicaid payments, various Quality Measures (QMs) and the Five-Star Rating System created by the Centers for Medicare and Medicaid Services (CMS).

MDS assessments play a major role in establishing payment levels for Medicare Part A covered post-acute care services as well as long term care covered by Medicaid through Fee-For-Service (FFS) and managed care. The Resource Utilization Groups (RUG) score, a measure of resident acuity used in both payment systems, is derived from the Activities of Daily Living and Physical Functioning sections of the MDS.

If a facility inaccurately completes its MDSs and this has the effect of creating an overpayment, the facility is subject to audit by federal and state authorities, and may be required to repay not only the amounts overpaid, but also interest and penalties if the facility knowingly submitted inaccurate claims. A facility that has been audited and had overpayments identified is often more likely to be audited in the future.


Another danger related to inaccurate MDS assessments – perhaps a more insidious one – is under-coding a resident's clinical and functional status. Under-coding means that the MDS does not reflect all the services needed or provided; essentially the facility is giving services away while incurring the costs of providing these same services. This can obviously lead to significant financial disruption and the need to take cost reduction efforts or other measures to try to make up for the lost revenues.

*A facility that has been audited and had overpayments identified is often more likely to be audited in the future.*

There are a multitude of MDS 3.0 based QMs in the public realm. These QMs are used to provide the public and others with indicators of quality of care, and to establish pay for performance programs such as the New York State nursing home quality pool. Thirteen MDS 3.0 based QMs are reported in the QM domain of the Five-Star Rating System reported on the Nursing Home Compare website. Examples of QMs that can be negatively affected by inaccurate

MDS assessments are prevalence of residents with pressure ulcers, residents who report moderate to severe pain and residents experiencing one or more falls with major injury. An inaccurate MDS can also negatively affect the care plan developed for the resident and, as a consequence, the actual care the resident receives.

CMS's Five-Star Quality Rating System has grown in importance since its inception. It is used by consumers, referral sources, regulators, lenders and investors to gauge nursing home quality. Nursing homes will be increasingly foreclosed from participating in Medicare and Medicaid managed care plans, provider referral networks, various innovative Medicare payment arrangements (e.g., episodic care, etc.) and opportunities for waiver of the 3-day prior hospital stay requirement in Medicare bundled payment and accountable care arrangements unless they have at least a 3-Star overall rating. Such a facility may be unable to receive sufficient numbers of admission referrals and Medicare/Medicaid payments.

In summary, inaccurate MDS assessments can lead to inaccurate billing, poor outcomes and declining referrals, and ultimately threaten business sustainability. LeadingAge NY Technology Solutions provides a suite of tools that help members enhance quality, MDS accuracy and ultimately reimbursement. The newest tool, Quality Apex, has an MDS 3.0 "Scrubber" with over 275 audits providing an opportunity to enhance each MDS's accuracy prior to care planning, billing or establishing QM rates. 

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## To Get the Best Results From Your Membership, Update Your Information Now

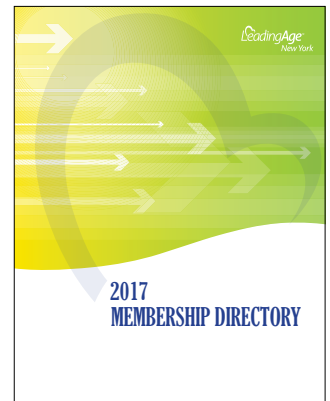
**L**eadingAge New York membership is a powerful tool but only if your staff can receive timely information and access member benefits.

A formal data collection process happens twice each year. It includes confirming and updating employee contact information and other member data to ensure members have access to timely information, benefits and services.

Data collection happens in July, in conjunction with the publication of the *Consumer Guide to Continuing Care* and again in December, in conjunction with the publication of the *Membership Directory*.

Over the next couple of weeks, you will receive a sample listing of your current employees (according to our records) for the 2018 directory. Please be sure to edit the information and send it back by the deadline so accurate information can be included in the *LeadingAge New York 2018 Membership Directory*.

To be sure you and your staff have up-to-the-minute access to all member benefits, contact Earl Gifford throughout the year with staffing and other changes. Earl can be reached at: [egifford@leadingageny.org](mailto:egifford@leadingageny.org) or 518-867-8383 ext. 149. 



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— Mike Keenan  
CEO, Good Shepherd Communities

**What would you like to increase with a consultation from ProCare?**

- ↑ Documentation
- ↑ Case Mix
- ↑ Cash on Hand
- ↑ Quality Metrics

Contact Michelle Synakowski, director of ProCare/senior policy analyst | P: 518.867.8832 | E: [msynakowski@leadingageny.org](mailto:msynakowski@leadingageny.org)

## The Five Senses Matter for Quality of Life

By Marc Plumart

Good care begins with empathy. Our industry must understand how seniors experience the world to design the right services and improve their quality of life.


We get all of our information about the world around us through our five senses, but as we age our senses often diminish. It's not just that we lose our hearing or have worsened eyesight. Senses of touch, taste and smell can weaken as well. These sensory changes alter the way we experience the world and ultimately impact quality of life.

It is our responsibility, not just as care providers but as a society, to make sure everyone can live their lives to the fullest. Understanding the five senses is a key part of that. Sodexo and our Institute for Quality of Life partnered with the University of Ottawa's Life Research Institute to deepen our understanding of seniors' sensory impairments.

We set out to study the senses to ensure that our services have a real and lasting impact on residents. Our goal is to improve quality of life. To do that, we must continually raise the standards for ourselves and our colleagues in the industry.

What we found is a return to what seems basic – our five senses – can create real opportunity for improvement. This study inspires new thinking, from simple changes to technological innovations, to ensure we continually raise the level of care for seniors.

- Seniors with diminished vision may have difficulty distinguishing between similar colors. Using high-contrast colors helps them see better, which allows them to navigate corridors and see all of the food on their plates.
- Eighty percent of people over 85 have hearing loss, which can separate seniors from making important daily connections with others. Minimizing background noise from heating and air conditioning systems makes it easier to interact and be a part of conversations.
- A diminished sense of taste can make eating less pleasurable. Preserving texture and enhancing flavors can bring enjoyment back to eating and help boost nutrition. Almost as important as the pleasure of a meal are the social connections mealtime creates.
- Robotic technologies are showing promise in care settings. For example, innovations such as pet-like robots are able to sense touch, sound and movement. They stimulate the sense in ways that help reduce stress and further stimulate social connections.

Our work on this topic continues as we build tools to measure and track how sensitive seniors' environments are to the five senses. We intend to raise the level of care for seniors at home and in long term care communities. By creating sense-sensitive environments, we can minimize the impact of sensory disorders and improve quality of life for seniors around the world. 

*Our goal is to improve quality of life. To do that, we must continually raise the standards for ourselves and our colleagues in the industry.*



All Noteworthy stories link to the main "Member News" page where stories are listed by date, with the most recent postings first. Send us your news stories and be featured in the next issue of *Adviser*.

# MEMBER NEWS

# NOTEWORTHY

## ANDRUS ON HUDSON



**Guiding Eyes Puppies Train at Andrus on Hudson Nursing Home** Since July, Guiding Eyes for the Blind has trained puppies in the auditorium at Andrus on Hudson, a dog-friendly nursing home. Several residents sit around the perimeter to observe. 9/7/17

## HEBREW HOME AT RIVERDALE

**A Nursing Home's High School Teaches Lessons On Life** The Hebrew Home at Riverdale brought a unique vision to life – to create a high school within the nursing home for students who are not diploma bound and would benefit from job training for future employment. 10/16/17

**The Hebrew Home at Riverdale at LeadingAge Conference** The expertise of the Hebrew Home at Riverdale played a significant role in this year's LeadingAge Conference in New Orleans. 11/13/17

## GURWIN JEWISH NURSING &



**Commack Nursing Home Residents, Staff Protest Cuts to Medicaid Program** Residents and staff at Gurwin Jewish Nursing and Rehabilitation Center protested the cuts to the Medicaid program. 8/15/17

## REHABILITATION CENTER

## JEFFERSON'S FERRY



**Jefferson's Ferry Announces Major Donation to Habitat for Humanity** Jefferson's Ferry, a not-for-profit Life Plan Community, made a significant donation commitment of household goods to Habitat for Humanity of Suffolk. The donations, which include lightly used major appliances, kitchen cabinetry, air conditioners, sinks, faucets and lighting fixtures, are being generated by the renovation and upgrades of cottages and apartments at Jefferson's Ferry. 8/30/17

## SCHEUER GARDENS



**CENTERLIGHT HEALTH SYSTEM Chairman Crowley Visits Senior Housing Community in the Bronx, Holds Roundtable Discussion with Advocates** On August 24, Rep. Joe Crowley (D-Queens, the Bronx), Chairman of the House Democratic Caucus, joined New York Housing Conference, affordable housing advocates, and residents for a walking tour of Scheuer Gardens, a 116-unit senior housing development in the Bronx. Following the tour, Crowley led a roundtable discussion to raise awareness of the importance of federal investments in affordable housing and highlight the need for senior developments like Scheuer Gardens. 8/30/17

(See Noteworthy on page 45)



## ELIZABETH SETON



Vicki Iannotti, MD

**Elizabeth Seton Pediatric Center Announces Dr. Vicki Iannotti as New Chief Medical Officer** The Elizabeth Seton Pediatric Center is thrilled to welcome Vicki Iannotti, M.D., as its new chief medical officer. 10/13/17

## PEDIATRIC CENTER

## VILLAGECARE AT 46 & TEN



**Zantonio Hung Awarded The LeadingAge New York Employee of Distinction Award** Zantonio Hung from VillageCare at 46 & Ten Assisted Living received the LeadingAge New York Employee of Distinction Award in a ceremony attended by State Senator Brad Hoylman, Assemblymember Linda B. Rosenthal, and LeadingAge New York president/CEO Jim Clyne. 10/19/17

## JEFFERSON'S FERRY



**Jefferson's Ferry Adds Recreational Activity Programs** Residents and their friends and families enjoyed the fresh air and sunshine at the Life Plan Community's outdoor recreation area. Residents have been flocking there with the addition of a croquet court, a challenging new putting green and updated bocce and shuffleboard courts. 11/7/17



**Episcopal SeniorLife Enhancing Seniors' Lives** The Rochester Business Journal recently profiled Episcopal SeniorLife Communities, a faith-based nonprofit organization dedicated to understanding individual and community needs and responding to those needs. 10/2/17

## ST. JOHNLAND NURSING CENTER



Carrie Schoen

**St. Johnland Welcomes Carrie Schoen** St. Johnland Nursing Center in Kings Park proudly welcomes Carrie Schoen, LCSW to its staff. Ms. Schoen has been working in the human services field since 2005. 8/23/17



Todd Zbytniewski

## WILKINSON RESIDENTIAL

**St. Mary's Welcomes a New Administrator to the Wilkinson Residential Health Care Facility!** St. Mary's Healthcare, Amsterdam is pleased to welcome Todd Zbytniewski as the new administrator of the Wilkinson Residential Health Care Facility. 10/23/17

## HEALTH CARE FACILITY



**CBS's Madam Secretary Films at Wartburg** Wartburg, a premier senior care and housing provider in Mount Vernon, was the backdrop during a Season 4 filming of CBS's hit series *Madam Secretary*. 10/17/17

## UNITED HEBREW OF NEW ROCHELLE

**United Hebrew CFO Recognized Among Top Financial Decision Makers in Westchester** United Hebrew of New Rochelle's Christina Villanueva was honored at the Westchester County CFO of the Year Awards on Oct. 10 at The Briarcliff Manor. 10/23/17



(See Noteworthy on page 46)





## BETHEL HOMES & SERVICES

**Ossining Rotary Club Recognizes Patricia Michalko as Bethel's Employee of the Year** Ms. Patricia Michalko, a Bethel employee and resident of Ossining, was honored at the Ossining Rotary Club's Annual Scholarship Fundraiser upon being named Bethel's Employee of the Year for embodying the club's motto, "Service Above Self." 11/13/17



## ST. FRANCIS COMMONS

**SUNY Oswego Teams Up With St. Francis Commons for Health and Wellness Project** A project now underway has brought together SUNY Oswego students from Dr. Minjung Seo's Health Promotion Program Planning class with residents at St. Francis Commons Assisted Living Residence. The project focuses on the development and implementation of evidence-based health promotion programs designed specifically for older adults. 10/11/17

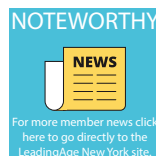


## HERITAGE GREEN REHAB &

## SKILLED NURSING

### Area Groups, Officials Gather To Raise Awareness About Domestic Violence

Heritage Green Rehab & Skilled Nursing, in partnership with the Salvation Army Anew Center, hosted a balloon release on Oct. 19<sup>th</sup> as part of the Shine The Light Campaign, which looks to raise awareness about domestic violence and the need to address it. 10/25/17



For more member news click here to go directly to the LeadingAge New York site.

## SCHOFIELD RESIDENCE



Randy Gerlach

### Randy Gerlach Appointed President and CEO of Schofield

**Care** The Board of Trustees/Directors has promoted Randy Gerlach president and CEO of Schofield Care. 10/31/17

## MEMBER NEWS

## NOTEWORTHY



## GURWIN JEWISH NURSING &

## REHABILITATION CENTER

### Nursing Home Staff Members Win \$50,000

**Powerball Prize** A group of 37 co-workers at Gurwin Jewish Nursing and Rehabilitation Center in Commack won a third-place Powerball prize, with a face value of \$50,000. 8/25/17



## ANDRUS ON HUDSON

**Andrus on Hudson Seniors Support Walk to End Alzheimer's** Members of the Andrus on Hudson staff walked on September 24<sup>th</sup> in Purchase at the official Alzheimer's Association Walk to End Alzheimer's. Residents are eager to make a difference too and held their own walk on September 21<sup>st</sup> at 1:30 in the facility auditorium. 9/15/17

(See Noteworthy on page 47)





## ST. JOHNLAND

### NURSING CENTER

#### *St. Johnland Honors Veterans St.*

Johnland Nursing Center honored 22 of its residents who are veterans of World War II and the Korean and Vietnam Wars at a special luncheon. 11/16/17

## UNITED HEBREW OF NEW ROCHELLE



### *United Hebrew Meets Demand For Specialized Healthcare, Adds Respiratory Therapy Services*

We're living longer than ever before, but as we age, more people find themselves managing

chronic conditions, illnesses and diseases that require specialized geriatric medical services. With that in mind, United Hebrew of New Rochelle has announced the addition of respiratory therapy services for its nursing home residents. 8/24/17



## JEWISH SENIOR LIFE

### *Jewish Senior Life's Green House cottages give residents 'real home'*

Jewish Senior Life's new Green House cottages represent a new standard in senior living, one that gives elders a more meaningful life, empowers staff and creates a real home for residents. 9/28/17

## THE CENTERS AT ST. CAMILLUS



Cynthia Stevenson



Dr. Robert Anderson



Patricia Curtin

### *Three 'Super Adults' Honored at St. Camillus' 2017 Summer Celebration of Service, August 3*

Cynthia Stevenson, Dr. Robert Anderson, and Patricia Curtin, three outstanding individuals who have gone above and beyond to serve the Central New York community, were honored at the August 3<sup>rd</sup> Summer Celebration of Service fundraiser at Bellevue Country Club in Syracuse to benefit The Centers at St. Camillus. 7/17/17



## BETHEL HOMES &

### SERVICES

### *Bethel Celebrates Annual Gala with Razzamataz, Pizazz and All that Jazz!*

The Bethel Foundation held its Annual Gala with a Jazz Brunch at the Red Hat restaurant in Irvington, N.Y. on September 17<sup>th</sup>. Guests enjoyed a relaxing brunch with a southern style menu and light Jazz music - all in a unique, inviting setting along the Hudson River. 9/19/17

## EDNA TINA WILSON



## LIVING CENTER

### *Edna Tina Wilson Holds 50's Sock Hop for Residents and Staff*

Edna Tina Wilson Living Center in Greece held a 50's style sock hop for residents and staff on October 30<sup>th</sup>, serving milk shakes, burgers and fries in their diner café. 11/3/17



## WAYNE COUNTY NURSING

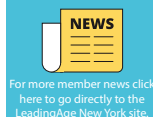


### HOME & REHAB CENTER

#### Wayne County Nursing Home Celebrates Grand Re-Opening of Patio Area

Wayne County Nursing Home celebrated the grand re-opening of one of their patio areas. The patio was expanded to triple its size, giving the nursing home a safer area away from the front entrance and traffic and allowing residents to go outdoors more independently. 8/28/17

## NOTEWORTHY



For more member news click here to go directly to the LeadingAge New York site.

## MEMBER NEWS

# NOTEWORTHY

## PARKER JEWISH INSTITUTE FOR



### Parker's Brian Sidiski Receives Kings of Queens Award at Schneps Communications Gala

Parker Jewish Institute for Health Care and Rehabilitation is proud to announce that Brian Sidiski, PT, MBA, director of rehabilitation, was honored at the recent Schneps Communications Kings of Queens Awards and Networking Gala. 10/23/2017

## HEALTH CARE AND REHABILITATION



### ST. JOHNLAND NURSING CENTER

#### St. Johnland 151<sup>st</sup> Anniversary Gala

St. Johnland Nursing Center's 151<sup>st</sup> Anniversary Gala honored longtime donors to the Ann Eden Woodward Foundation and its trustees, Judy and Pat Woods. 9/14/17



## JEWISH SENIOR LIFE

### Jewish Senior Life hosts food truck rodeo to

thank employees Jewish Senior Life held a "Food Truck Rodeo" for staff to show its appreciation for the hard work and dedication involved with making the opening of its new Green House Cottages a success. 10/26/17



Paula Bokman

## EPISCOPAL SENIORLIFE

### Episcopal SeniorLife Communities

**Announces New Hire** Paula Bokman, RNC-NE, recently accepted the position of assistant director of nursing at The Episcopal Church Home (part of Episcopal SeniorLife Communities - ESLC). 7/27/17

## COMMUNITIES

## VALLEY MANOR

### Eastman Student Chosen as First

#### Artist-in-Residence at Valley Manor

Providing a musical environment for senior citizens while offering an affordable living arrangement for an Eastman School of Music student is the concept for the new Artist-in-Residence program at Valley Manor, an independent living community part of Episcopal SeniorLife Communities. Doctoral student and violinist Yunjung Lee is the first Eastman student to be chosen for this special new program. 10/10/17



## THE FRIENDLY HOME



Allyson DeVantier



Donna Auria



Courtney Pierce

### Friendly Home Announces New Hires

The Friendly Home, part of the Friendly Senior Living continuum of caring communities, is pleased to announce it has hired three new team members. Allyson DeVantier has been hired as director of dining services, Donna Auria has been hired as development manager and Courtney Pierce has been hired as director of life enrichment. 6/13/17

(See Noteworthy on page 49)



## PECONIC LANDING

### *Peconic Landing wins award for opening new facility for memory support*

Peconic Landing has been honored with the Distinguished Provider Award for opening Harbor South, an auxiliary center focused on memory support for its members. 10/18/17



**'My Backyard' at St. Francis Commons Offers Safe Access To Outdoors, All the Health Benefits That Can Follow** St. Francis Commons Assisted Living Residence in Oswego is putting the final additions on a project that has added physical improvements to the residence and uses new technologies to enhance the Memory Care at St. Francis program. 10/31/17



### *ArchCare Gala Raises Record \$1.5 Million to Care for Seniors and People with Special Needs*

ArchCare, the healthcare ministry of the Archdiocese of New York, raised a record \$1.5 million at its annual black-tie fundraising gala to help address unmet and underfunded health and social needs of the elderly and people with special needs. 11/3/17



**Gray Gold: Forum Highlights Elderly Economy** Mercy Care for the Adirondacks hosted an educational forum at Paul Smith's College on the economic benefits of establishing an aging-friendly community. 11/13/17



**Ribbon Cutting Held for The Cornerstone Club** A ribbon cutting ceremony officially launched a new program designed especially for older adults in the Oswego County community. Developed by St. Luke Health Services, The Cornerstone Club Social Day Program offers members a comfortable place to socialize and take part in activities with staff available to provide supervision, health and nutrition monitoring, and assistance with personal care needs, all in a safe location that is easily accessible. 10/23/17



**"Once Upon A Time" Project Takes OMS Students On A Journey Through History** A new intergenerational initiative between Oswego Middle School students and the residents at St. Francis Commons Assisted Living Residence has resulted in new collaboration, as a "Life Story" project is underway. 10/18/17

## PARKER JEWISH INSTITUTE FOR



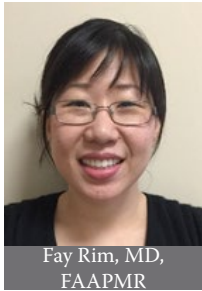
**Jewish Center of the Hamptons to Offer Senior Activity Program** The Jewish Center of the Hamptons in East Hampton hopes to start a weekly adult day care program in collaboration with the Parker Jewish Institute for Health Care and Rehabilitation. 11/8/17

## HEALTH CARE AND REHABILITATION

(See Noteworthy on page 50)



## NEW YORK CITY HEALTH &



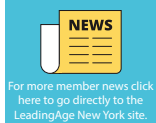
### **Fay Rim, MD, FAAPMR, Appointed Senior Assistant Vice President for Palliative Care**

NYC Health & Hospitals announced that Fay Rim, MD, FAAPMR, was appointed senior assistant vice president for palliative care. Dr. Rim will be responsible for designing and implementing strategies to support a population-based approach to meeting palliative care needs throughout the NYC

Health & Hospitals health care system, including primary care, specialty care, inpatient care, emergency department, and post-acute care, as well as care delivered in the community. 7/25/17

## HOSPITALS CORPORATION

### NOTEWORTHY



### MEMBER NEWS

## NOTEWORTHY



### ELIZABETH SETON

### PEDIATRIC CENTER

#### **Elizabeth Seton Pediatric Center Celebrates Grand**

**Opening of 32-Bed Expansion** The Elizabeth Seton Pediatric Center, one of the nation's leading providers of health and quality-of-life services for medically complex children, announced the official grand opening of its \$24 million, 32-bed technology-dependent expansion in Yonkers, N.Y. 9/8/17

## M.M. CONTINUING CARE CENTER



Michele Cone

### **M.M. Ewing Center Names Nursing**

**Director** Michele Cone, of Geneseo, was named director of nursing for M.M. Ewing Continuing Care Center at UR Medicine's Thompson Health in Canandaigua, as well as its medical adult day program, The Brighter Day. 10/11/17

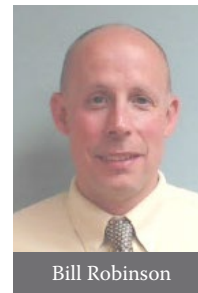
## ST. ANN'S COMMUNITY



Brian Heppard, MD

### **Dr. Brian Heppard Joins St. Ann's Medical Team**

St. Ann's Community, Rochester's leading senior housing and health services provider, is proud to announce the addition of Brian Heppard, MD to its medical team. 6/26/17



Bill Robinson

### **St. Ann's Community Appoints New Assistant Administrator**

St. Ann's Community is proud to welcome Bill Robinson as the new St. Ann's Home assistant administrator. 7/19/17

## MONROE COMMUNITY HOSPITAL



### **Monroe Community Hospital Foundation Raises \$30,000 at Wine Tasting Event**

On September 15<sup>th</sup>, the Monroe Community Hospital (MCH) Foundation held their 14<sup>th</sup> Annual Wine, Beer and Food Tasting event, which brought in over \$30,000 in contributions to support important quality-of-life initiatives for the residents of MCH. 9/19/17



### ARCHCARE AT FERNCLIFF

### NURSING HOME

#### **Woman With Huntington's Disease Invited to**

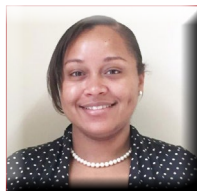
**see Pope in Rome** Bridgette Nathan, a 24-year-old with Huntington's disease who resides at ArchCare at Ferncliff's Center for Neurodegenerative Care in Rhinebeck, was invited to travel to Rome for a special audience with Pope Francis on May 18 as part of HDdenomore (pronounced 'Hidden No More'), a global initiative of Huntington's disease (HD) patient advocates held at the Vatican to raise awareness about the disease and the need for compassionate, quality care. 8/15/2017

# NOTEWORTHY

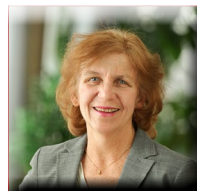
## LEADINGAGE NEW YORK NEWS

### SOCIAL WORK SCHOLARSHIP PROGRAM

Congratulations to this year's recipient Julia Joachim, LMSW of Methodist Home for Nursing and Rehabilitation in Riverdale. She was awarded the *Polly Vincent DiCesare Educational Memorial Fund Scholarship*. This scholarship makes it possible for a social worker to attend the LeadingAge New York Nursing & Social Work Professionals Conference & Expo by providing a free conference registration and hotel stay.



Julia Joachim



Polly Vincent DiCesare

Polly Vincent DiCesare was employed at the Presbyterian Home for Central New York in New Hartford for 38 years as director of social services. On September 15, 2015, after overcoming tremendous odds and fighting cancer for over two years, Polly passed away.

To commemorate her dedication to the field of social work and the importance Polly placed on the education and training of her social services staff, the *Polly Vincent DiCesare Educational Memorial Fund* was established by her family.

### Welcome New Members

#### Primary Members:

Clyde F. Simon Lakeview II | Jack Kenny Memorial Housing | Pinehurst

#### Associate Basic Members:

Dr. Timothy Peck, president Call9 Medical P.C.

### Upcoming LeadingAge New York Events & Education

#### Conferences

**April 10-12, 2018**

**Housing Professionals Annual Conference**

Marriott Syracuse Downtown, Syracuse

**April 19-20, 2018**

**2018 Adult Day Health Care Annual Conference**

Embassy Suites, Saratoga Springs

**May 22-24, 2018 (Tues. - Thurs.)**

**Annual Conference & Exposition**

The Saratoga Hilton & Saratoga Springs City Center, Saratoga Springs

*Don't miss Cara Silletto's Keynote presentation: "The Case for Change: Critical Workforce Insights for the C-Suite"*

**Sept. 14-16, 2018**

**Winning at Governance 38<sup>th</sup> Annual Trustee Conference**

Saratoga Springs

*Save the date for this educational event open to LeadingAge New York members and their trustees*

*Offered by the Healthcare Association of New York State*

#### Educational Events

**AANAC RAC-CT Certification Workshops**

**Registration opens Jan. 2018**

**June 5-7, 2018**

Gurwin Jewish Nursing & Rehab Center, Commack

**Aug. 14-16, 2018**

Loretto Health & Rehab Center, Syracuse

**Aug. 21-23, 2018**

United Hebrew Home of New Rochelle, New Rochelle

**Nov. 28-30, 2018**

The Wesley Community, Saratoga Springs

Check out our full line-up by [clicking here.](#)

To feature your news items with LeadingAge New York send press releases to Kristen Myers at [kmyers@leadingageny.org](mailto:kmyers@leadingageny.org)