

## Support the Development and Efficient Operation of CCRCs in New York

LeadingAge New York urges lawmakers to eliminate barriers to the development, expansion, and efficient operation of Continuing Care Retirement Communities (CCRCs) in New York while preserving vitally important resident protections. 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.

### Enact CCRC Revitalization Legislation

Comprehensive statutory and regulatory reforms are needed in order to modernize the outdated enabling provisions of Public Health Law Articles 46 and 46-A, and eliminate barriers to the development, expansion, and efficient operation of CCRCs in New York:

- **CCRC Council:** Update the CCRC Council role to an advisory one, and expedite review of new or expanded CCRCs by the Department of Health (DOH) and the Public Health and Health Planning Council. The CCRC Council has not provided effective oversight, but rather has caused delays and inefficiencies in establishing and monitoring CCRCs;
- **Single State Agency Oversight:** Up to three State agencies (i.e., DOH, the Department of Financial Services (DFS) and the Office of the Attorney General) review applications and mandatory documentation for CCRCs, resulting in significant delays. Regulatory authority should be consolidated in DOH;
- **Streamlining Approvals:** Establish clear guidelines and timeframes to process applications and approvals and ensure staff resources to evaluate these requests in an efficient manner;
- **Single Contract:** Clarify that the CCRC residency agreement is the single contract covering all services provided by the community to streamline State surveillance and oversight;
- **Outside Admissions:** Clarify standards for “outside admissions” to ensure CCRCs can meet their actuarial revenue projections. When assisted living/nursing home beds are first opened, there may be vacancies and CCRCs are allowed under certain circumstances to admit individuals from outside of the community;
- **Unnecessary Requirements:** Identify statutory requirements that do not exist in other states and that make the establishment and operation of CCRCs in New York unnecessarily complex and expensive;
- **Efficient Use of Entrance Fees:** Allow the use of 85 percent of residents’ entrance fee deposits for the cost of acquiring, constructing, and equipping the facility; and
- **Supplemental Medicare Coverage:** Require that residents have supplemental coverage for Medicare Part A coinsurance amounts payable for post-hospital nursing home care.

## **Reject Proposed Nurse Staffing Ratios**

Current legislation [A.8580-A (Gunther)/S.782 (Hannon)] would impose specific staffing ratios for nurses and other direct-care staff in nursing homes and hospitals. However, the available research does not reflect that high staffing levels produce higher quality of care or quality of life. In fact, the only outcome of this legislation will be higher costs to CCRC residents and to the Medicaid program.

From a public and fiscal accountability standpoint, nursing homes are already responsible for ensuring adequate staffing. For example:

- Staffing is already one of three domains used in the Medicare Nursing Home Compare 5-star rating system that is provided to the public for purposes of comparing facilities.
- DOH's Nursing Home Quality Initiative – which allocates \$50 million based on individual facility quality scores – incorporates two staffing measures.
- The federal government requires every nursing home in the country to post in a prominent place the numbers of licensed and unlicensed direct care staff on duty for every shift.
- Under new federal requirements taking effect later this year, nursing homes must collect and submit detailed data from their payroll systems on staffing hours provided to residents.

The staffing standards proposed in this legislation would conservatively cost an estimated \$1.06 billion to implement in the State's nursing homes each year and could have a detrimental impact on residents. Mandated, specific ratios would not provide flexibility to address variations and changes in patient/resident care needs. Nursing homes and health care clinicians make staffing decisions every day based on each patient's condition, acuity, and individual care plan. Every patient and resident is different, with needs that can change rapidly. Every nurse and member of the care team has unique expertise. No two nursing homes or patients are the same and treating them as such will lead to adverse outcomes.

Before mandating "one-size-fits-all" staffing ratios, the State should encourage entrance into the long term care field, promote recruitment and retention, assist nursing education programs that are struggling, help with the cost of nursing education, and promote nursing professions in general.

## **Enable Nurses to Practice Nursing in ACFs**

ACFs located in CCRCs and elsewhere employ licensed practical nurses and registered nurses. Currently, these professionals are permitted to perform nursing tasks only in ACFs that are also licensed as *enhanced* assisted living residences. This results in an inefficient use of resources and needlessly adds to resident costs. This limitation also prevents nurses from providing services that would result in better health outcomes for the resident.

Lawmakers should enact legislation to permit nurses to perform intermittent nursing tasks within their scope of practice in all ACF settings, thereby creating the option to provide additional services directly.

## **Questions**

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