

MEMORANDUM

S.1803 (Rivera)

AN ACT to amend the public health law, in relation to promoting the development, expansion and efficient operation of continuing care retirement communities; and providing for the repeal of certain provisions upon expiration thereof

This legislation would modify Articles 46 and 46-A of the Public Health Law in a way that would eliminate various barriers to the development, expansion, and efficient operation of Continuing Care Retirement Communities (CCRCs) in New York State while preserving vitally important resident protections.

Article 46 was first enacted in New York in 1989, and Article 46-A (which allows for fee-for-service CCRCs) was added in 2004. Over the last 25 years, the number of CCRCs and similar communities has grown dramatically across the nation, including in neighboring states such as Pennsylvania. CCRCs have become one of the primary means by which seniors of varying income levels can fund and provide for their ongoing health care, services, and housing needs. However, since Article 46 was first enacted, only 12 CCRCs have become operational in the State.

The requirements of Articles 46 and 46-A have created an environment in which it is prohibitively expensive and administratively burdensome to start or expand a CCRC, and extremely difficult for current CCRCs to operate efficiently and make their services more affordable. CCRCs are regulated by two State agencies (the Department of Health (DOH) and the Department of Financial Services) and in certain cases by a third one (the Office of the Attorney General). This level of oversight is burdensome, time-consuming, creates conflicts and duplication, and adds significantly to the cost of developing and operating CCRCs. The legislation would modify provisions of Article 46 and Article 46-A that mandate multiple agency involvement to consolidate oversight in DOH and make it clear that other agencies are involved in a limited consultative role.

CCRCs are also subject to overly proscriptive requirements governing refunds, accessing funds to finance construction/purchase, and how reserve funds can be invested. While robust protections are needed to ensure the financial well-being of the communities and that resident deposits and fees are secure, the current requirements preclude communities from earning enough on investments to cover the cost of capital. As a result, resident fees increase and the model becomes less affordable to more New Yorkers. The legislation would modify these requirements to make more efficient use of reserve funds while maintaining important financial safeguards.

Both nationally and here in New York, CCRCs have proven themselves to be financially stable and sound investments for residents and their communities. Rather than costing the State money, CCRCs are a proven economic driver for local communities. The CCRC model is not a new Medicaid program that

will cost the State money. On the contrary, seniors who invest in their care and housing needs through a CCRC do not divest their assets to qualify for Medicaid-funded services.

For these reasons, LeadingAge NY strongly supports this legislation and recommends that it be adopted.

LeadingAge New York represents over 400 not-for-profit and public long term care providers, including nursing homes, home care agencies, senior housing, retirement communities, assisted living, adult care facilities, adult day health care and managed long term care.