

MEMORANDUM

S.1788 (Rivera)

An act to amend the social services law, in relation to allowing certain adult care facilities to arrange for limited nursing services

LeadingAge New York, along with our 120 members that provide Adult Care Facility (ACF) and assisted living services, feel strongly that those settings which employ nurses should have the *option* to provide those services directly. Many ACF and assisted living providers in New York employ nurses, however only those facilities licensed as Enhanced Assisted Living Residences (EALR), which allow for “aging in place”, can provide nursing services directly. So, when residents of facilities without EALR licensure have a nursing need, the on-site nurse--even if he or she is capable of performing the task--cannot assist the resident. Instead, the facility must bring in a third party to provide the service, or call 911. This is not a resident-centered approach to care. S.1788 (Rivera) would fix these problems and allow nurses in those settings to provide services directly, at the direction of the resident’s physician or physician extender, and within their scope of practice and competency.

In an ACF or assisted living setting that does not have EALR licensure, a nurse cannot conduct an assessment on an individual to determine their needs to possibly prevent an emergency room visit. As a result, there are many unnecessary visits to the Emergency Room (ER) that could have been diverted if the on-site nurse had been able to utilize their skills and assess the situation. In fact, one assisted living provider estimated that they could have prevented 70 ER visits last year, had they been able to utilize their nurses to conduct assessments. With over 500 facilities in the state, financially the potential impact is staggering. From a resident quality of life perspective, the prevention of even one ER visit is invaluable. Going to the ER is often traumatic for a frail senior—particularly an individual with dementia.

On occasion, a resident may have a fairly straightforward nursing need, such as the application of a topical ointment in place that is difficult to reach. In these cases, the facility must bring a home care agency in to serve the resident, even if they have nurses on-site. Since such basic services are typically not covered by Medicare, the resident must often pay for these services out of pocket. If the simple need is an ongoing one, the resident probably won’t be able to stay in that facility, and may have to go to a nursing home. Is this fair to the resident when a facility has a nurse in house who could perform those tasks?

We urge the legislature to move forward on this issue, so that ACF and assisted living facilities that employ nurses can provide needed services to their residents. This legislation makes it clear that residents who need a higher level of care will still indeed get a higher level of care if they truly need it. At the same time, it allows for a community to reserve emergency response for those instances where the resident truly needs to go to the emergency room, or when there is an emergency in the larger community. This bill provides a common sense and person-centered approach to ACF and assisted living services, which is also consistent with federal and state policy. For these reasons, we support S.1788 (Rivera) and urge that it be passed immediately.

LeadingAge New York represents nearly 500 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.