

MEMORANDUM

A.1944 (Simon)

AN ACT to amend the elder law, in relation to creating a temporary state commission to study and investigate the effects of closures of long term care facilities on the residents of such facilities and their families; and providing for the repeal of such provisions upon expiration thereof

LeadingAge New York appreciates the spirit of consumer protection that this legislation offers, but must oppose this bill. There are already numerous State and Federal processes and protections in place to assist facilities, its staff and residents when navigating a potential closure, including approving the facility's closure and plan of closure. In addition, there are very real barriers to implementing the law as written.

The effects of a facility closure are, unfortunately, well-known. Closures have a negative impact on residents, families, staff and the community as a whole. We also understand the factors that contribute to closure, many of which involve financial pressures which are only intensifying. Much can be learned from these past examples.

The legislation requires that no facility be able to close until one year *after* the Commission on Long Term Care Facilities ("the Commission") reports its findings and provides recommendations. This is simply not feasible. Once it becomes public knowledge that a facility is closing or is considering closing, staff begin to find jobs at other facilities, financial considerations must be made from an accounting standpoint, (i.e. payroll and vendor supply issues) and plans for residents must be made. If an organization cannot afford to care for its residents, the State should not force the organization to remain open.

In addition, the Department of Health (DOH) already regulates these residential health care facilities and assisted living facilities, and just recently issued additional guidelines about a facility closure that requires additional communication and approval from DOH. Interestingly, DOH is not listed as a participant of the Commission.

Currently, most Not-for-Profit (NFP) entities facilities facing financial troubles are not closing, but are selling to private, for-profit entities. LeadingAge New York recommends that all NFPs, including governmental facilities, should be exempt, in addition to religiously-sponsored NFPs, from this legislation.

For these reasons, LeadingAge New York opposes A.1944 (Simon) and urges it be rejected.

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.