

MEMORANDUM

A.3802 (Gunther)

AN ACT to amend the labor law, in relation to including certified nursing assistants in provisions of law relating to restrictions on consecutive hours of work

In 2008, legislation was enacted that limited the number of consecutive hours work by Registered Nurses (RNs) and Licensed Practical Nurses (LPNs). This legislation would extend these restrictions to Certified Nursing Assistants (CNAs) as well; putting vulnerable populations at risk.

LeadingAge New York members appreciate the spirit of this legislation; the use of overtime is not ideal, and there are already strong disincentives to rely on overtime. It is significantly more expensive than using regularly scheduled workers, can lead to reduced productivity and has been shown to have a negative impact on staff retention. On the other hand, there are significant incentives to providing quality care and keeping costs down. As a result, providers do everything they can to avoid overtime, but sometimes it is a necessity.

Instances where providers are forced to employ mandatory overtime generally arise when regularly scheduled workers fail to appear for their shifts due to sickness or other unplanned absences (i.e., “call-ins”). In those circumstances, providers typically try to recruit volunteers or look to staffing agencies to cover the absence. However, when such remedies are unavailable, providers are forced to mandate overtime since they must provide necessary services to their residents. Simply put, if this legislation is passed, vulnerable nursing home residents can be left uncared for in these instances.

LeadingAge New York agrees that overtime should be a limited practice for special circumstances, but eliminating a providers’ ability to use overtime may have the unintended consequence of compromising the safety of residents.

For these reasons, LeadingAge New York must oppose A.3802 (Gunther) and urge that it be rejected.

LeadingAge New York represents nearly 500 not-for-profit and public continuing care providers, including nursing homes, adult care facilities, senior housing, adult day care programs, certified home health agencies and long term home health care programs.