

MEMORANDUM

A.171 (Gottfried)

AN ACT to amend the public health law, in relation to requiring a registered nurse on staff at facilities certified for enhanced assisted living or special needs assisted living

LeadingAge New York opposes nurse staffing requirements for the Enhanced Assisted Living Residence (EALR) and Special Needs Assisted Living Residence (SNALR) because it is unnecessary, would waste scarce resources, drive the cost of care up for consumers and make the model itself not viable.

The mandated staffing requirement for the EALR and SNALR is unnecessary because the Department of Health (DOH) is already required to approve each facility's plan for the types of residents they serve and the kind of staffing they will provide to meet the needs of the residents. The facility must demonstrate that they have planned adequately to meet resident needs and the facilities cannot go beyond DOH-approved services. If the facility is ill-equipped to care for the type of residents that they propose to serve, DOH will not let them proceed with their submitted staffing plan. Mandating that EALRs and SNALRs have a nurse on staff will not help facilities to meet their staffing needs; instead it lessens the facility's flexibility to staff to the needs of its residents. Flexibility will also be decreased by the requirement that nurses be employed directly by the EALR or SNALR, where in the past nurses could either be directly employed or brought in through a nurse staffing agency.

The staffing requirement is also unnecessary because most of the EALRs and SNALRs only certify a small percentage of their licensed beds as EALR or SNALR and are providing more personal care services and supervision than any other service. This is important because in an EALR, the facility can set their own retention standards, and most facilities have chosen to simply provide additional personal care services. These facilities want to retain the character of their facilities, and do not want to become nursing homes.

Additionally, Adult Care Facilities (ACFs) have been caring for people in memory care or dementia units for years. Given that the services and standards of the SNALR are much the same as existing guidelines for dementia units in ACFs, we question why increased nurse staffing is warranted. Even more important is the fact that the SNALR does not empower a nurse to provide all the services his or her license would allow. This bill states that the nurse would be "onsite to assess and monitor the condition of the residents", however, DOH has interpreted ACF statute to mean that a nurse cannot conduct assessments in an ACF, ALR, or SNALR. If a nurse is unable to conduct these assessments, then it seems that the requirement for nurses in ACFs, ALRs or SNALRs would be a waste of an important and scarce resource. The nurse shortage in New York is well documented and it is projected that it will only worsen. In these challenging times, we have to make wise decisions about how to utilize our most precious resources. The most prudent way to do this is by continuing to allow facilities to assess their own staffing needs with oversight from DOH.

Requiring nurse staffing in the EALR and SNALR will drive up the cost of care. Supplemental Security Income (SSI) recipients will not be served in ALRs on any level, and the existing gap between cost of care and SSI reimbursement will only widen – this will increase the number of Medicaid-eligible individuals residing in nursing homes. Only a small number of consumers will be able to afford enhanced and special needs assisted living, and of those, many will choose to hire help in their own home instead.

LeadingAge New York shares consumers' concerns about quality of care and we believe that there are many ways to achieve quality care, however, having minimum nurse staffing does not provide any guarantee that quality will improve. Quality becomes irrelevant, too, when no one can afford the service. For these reasons, LeadingAge New York opposes A.171 (Gottfried) and urges that it be rejected.