

MEMORANDUM

A.159 (Gottfried)/S.995 (Hoylman)

AN ACT to amend the public health law, in relation to remedies available in private actions by patients of residential health care facilities

LeadingAge NY has concerns regarding legislation A.159 (Gottfried)/S.995 (Hoylman), a bill which provides that any remedies available pursuant to section 2801-d of the Public Health Law are also available to the resident's legal representatives or the resident's estate. The legislation also provides that actions under this section may be brought, in an appropriate case, by the patient's legal representative or the patient's estate.

LeadingAge New York believes that this bill is not necessary. Under existing law, legal actions may already be brought on behalf of nursing home residents by their legal representatives or, in the event of their death prior to filing suit or during the course of an action, by their estates. When legislation is enacted that duplicates existing law, courts may infer an intent or meaning that was not intended. This legislation creates a risk of misinterpretation and unintended consequences, and does not provide any new or additional right to legal action.

For these reasons, LeadingAge New York recommends that A.159/S.995 be rejected.

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