

MEMORANDUM

A.6697-B (Fahy)/S.7492-B (Stavisky)

An act to amend the education law, in relation to temporarily authorizing certain applicants for licensure as a nurse or physician to practice; and providing for the repeal of such provisions upon the expiration thereof

LeadingAge New York supports this legislation, which would allow certain applicants for licensure as a nurse or physician who are currently licensed and in good standing in another state or territory to be granted authorization to practice in this state for a limited period of time pending a determination on their licensure in New York State. Additionally, LeadingAge New York recommends that the bill be amended to also allow unlicensed staff to continue to self-test in facilities, primarily for COVID but also influenza, when necessary. This would effectively continue the flexibilities provided for under Executive Order #4, which is set to expire on June 8, 2023, for a one-year period.

Between 2015 and 2040, the number of adults aged 65+ in New York will increase by 50 percent, and the number of adults 85+ will double. At the same time, the percentage of the working age population (i.e., aged 18 to 64) will shrink. Unfortunately, the supply of workers is not keeping up with demand, and nursing homes, adult care facilities (ACFs)/assisted living, home care agencies, and hospices are not able to fill existing job openings for nurses. According to a March 2022 report from the University at Albany's Center for Health Workforce Studies, over 85% of nursing homes and ACFs were having difficulty recruiting needed nurses, with a majority of home care agencies reporting similar difficulties.

The COVID-19 public health emergency exacerbated these shortages, and staffing flexibilities afforded by executive orders and under federal waivers assisted providers in securing needed staffing during the pandemic. This continuation of the waivers granted under Executive Order #4 will allow more time for those nurses and physicians licensed outside of New York State to work in New York healthcare facilities and agencies until their licensure applications are acted upon.

LeadingAge New York recommends that the legislation ensure that healthcare providers that employ such individuals or allow such practitioners to practice in their facilities/agencies: (1) are not subject to any criminal or civil penalty related to utilizing non-licensed personnel in this manner; (2) can utilize the hours worked by these individuals towards any minimum staffing requirements otherwise imposed in state law/regulation; and (3) do not run afoul of any relevant federal requirements related to the use of licensed staff and practitioners. In an effort to promote ongoing flexibility in this area, we encourage the Legislature to also pass legislation authorizing New York's participation in the interstate nurse licensure compact and the advanced practice registered nurse compact.

For these reasons, LeadingAge NY supports A.6697-B (Fahy)/S.7492-B (Stavisky) and urges that it be adopted.

LeadingAge New York represents over 400 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.

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