

July 11, 2019

Dear Members:

The 2019 Legislative Session drew to a close in the early morning hours of Friday, June 21<sup>st</sup>. To supplement [last month's update](#) on the outcomes of our key advocacy initiatives, LeadingAge New York has developed this comprehensive document summarizing all of the health, housing, and long term care legislation that we followed over the course of session. As you will see, one of the priority bills we championed and several others we supported passed both houses of the Legislature. Additionally, nearly all of the bills we opposed were defeated or amended with you in mind. We would not have had these successes if it weren't for your advocacy efforts. ***Thank you for all of your help!***

A great deal of this year's advocacy was spent educating the substantial group of new legislators on the importance of long-term post acute care services. With lawmakers now back in their districts, LeadingAge New York challenges you to set a ***Summer Grassroots Advocacy Goal!*** The importance of legislators knowing who you are and the role your organization plays in the community at large cannot be overstated. Invite your lawmakers to your organization to meet your residents and staff and thank them for their hard work in helping us advance our priorities. As we look ahead to the 2020 legislative session, the relationships established during these summer months will be invaluable.

If you have any questions or concerns about the bills mentioned in this document or would like to discuss any advocacy initiatives, please feel free to contact the Advocacy and Public Policy team at 518-867-8383.

As always, we will keep you posted with any legislative updates. Again, thank you for your advocacy efforts. ***Our successes would not have been possible without you!***

Ami

**LeadingAge New York**  
**Legislative Bill Summary**  
**July 2019**  
**Passed Both Houses**

These bills have passed both the Assembly and Senate and are waiting to be signed into law by the Governor.

**LHCSA Moratorium Flexibility**

[A.976 \(Gottfried\)/S.1820 \(Rivera\)](#)

*Summary:* Grants the Commissioner of Health greater authority to provide exemptions to the recently enacted moratorium on Licensed Home Care Services Agency (LHCSA) applications.

*Position:* Support

**E-Prescribing Requirements Exception for Nursing Homes**

[A.1034-A \(Gottfried\)/S.4183 \(Rivera\)](#)

*Summary:* Allows non-electronic prescriptions to be made through the long-established mechanism of oral prescriptions being submitted by nursing homes for their residents.

*Position:* Support

**Definition of Palliative Care**

[A.1078 \(Gottfried\)/S.4582 \(Skoufis\)](#)

*Summary:* Adds a definition for and updates other references to palliative care in the hospice law.

*Position:* Support

**Rights of Residents of Adult Care Facilities**

[A.1084 \(Gottfried\)/S.874 \(Rivera\)](#)

*Summary:* Authorizes residents in adult care facilities to designate resident representatives and legal representatives; also establishes that residents have the right to choose their own health care providers and be fully informed about treatment and the right to refuse treatment.

*Position:* No Position

**Medical Orders for Life-Sustaining Treatment**

[A.1162-A \(Gottfried\)/S.4841 \(Rivera\)](#)

*Summary:* Adds physician assistants to the list of health care professionals authorized to complete and sign medical orders for life sustaining treatment for their patients.

*Position:* Support

**Utilization Review for Nursing Home Coverage**

[A.3059 \(Gottfried\)/S.1810 \(Rivera\)](#)

*Summary:* Requires a utilization review of a request for nursing home care after an inpatient hospital admission to be completed within 24 hours of the request.

*Position:* Oppose

**Nursing Home Oversight**

[A.4757-A \(Gottfried\)/S.5908 \(Rivera\)](#)

*Summary:* Strengthens obligations to report abuse of nursing home residents, establishes independent quality monitoring of written corrective action plans, requires disclosure of any co-owners or contractors with familial ties to the operator and limits debt obligations.

*Position:* [Oppose](#)

**HIPPA Security Breach**

[A.5635-B \(DenDekker\)/S.5575-B \(Thomas\)](#)

*Summary:* Broadens the scope of information covered under the notification law, updates the notification requirements when there has been a breach of data and broadens the definition of a data breach to include an unauthorized person gaining access to information.

*Position:* Concerns; Amendments Included

**Medicaid Reimbursement for Complex Needs Patients**

[A.7492 \(McDonald\)/S.5741 \(Skoufis\)](#)

*Summary:* Requires specific Medicaid insurance codes related to complex needs patients' therapy and treatment; requires managed care contracts to comply with certain reimbursement rates.

*Position:* Concerns

**LeadingAge New York**  
**Legislative Bill Summary**  
**July 2019**  
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**MLTC Auto-Enrollment**

[A.7578-A \(Gottfried\)/ S.5485-A \(Rivera\)](#)

*Summary:* Authorizes an individual eligible for managed long term care to be auto-assigned to an MLTC if the person does not choose a plan within the first 75 days.

*Position:* Support

**In-Service Registry for Home Care Workers**

[A.7854 \(Gottfried\)/ S.5605 \(Rivera\)](#)

*Summary:* Requires entities providing in-service training to submit a record of in-service training to the Home Care Worker Registry.

*Position:* [Support](#)

**CCRC Revitalization**

[A.8193 \(Schimminger\)/S.1803-A \(Rivera\)](#)

*Summary:* Consolidates authority for the approval and operation of CCRCs into the Department of Health (DOH).

*Position:* [Support](#)

**Rent Reform Package**

[A.8281 \(Heastie\)/S.6458 \(Stewart-Cousins\)](#)

The "Housing Stability and Tenant Protection act of 2019" extends and makes certain provisions of law permanent relating to rent control and rent stabilization. As was anticipated, the package of bills includes a provision on security deposits. The final provision included our proposed language exempting certain housing and services providers from increased security deposit regulations. *The bill has already been signed by the Governor.*

*Position:* Support

**Medical Mal-Practice Legislation**

**Pre-Trial Liability Determination**

[A.2372 \(Dinowitz\)/S.6081 \(Hoylman\)](#)

*Summary:* Applies to cases in which there are multiple co-defendants and one settles. It requires that the remaining defendants must elect, prior to trial, whether to reduce liability by the amount of the settlement or by the amount of the equitable share of damages delegated to the settler in the verdict. Because the non-settlor would have to make the choice before the verdict was rendered, there would be an added incentive to a defendant to settle, rather than to sit back and choose the "best of both worlds."

*Position:* No Position

**Third-Party Defendant Recovery**

[A.2373 \(Dinowitz\)/S.6552 \(Skoufis\)](#)

*Summary:* Adds a new Section 1405 to the Civil Practice Law and Rules (CPLR) to expressly permit a plaintiff, as judgment creditor against a defendant, to recover and collect an unsatisfied judgment directly from a third-party defendant found liable for contribution or indemnification. Thus, in the case where a defendant/third party plaintiff is insolvent and is unable to pay the judgment to the plaintiff, the plaintiff could still seek to recover directly that portion of the judgment, owed by the third party defendant to the defendant/third party plaintiff.

*Position:* No Position

**LeadingAge New York  
Legislative Bill Summary  
July 2019**

**Legislation Failing to Advance to the Governor**

These bills have passed either the Assembly or Senate or remained in committee.

**Filming of Medical Treatments**

[A.420-A \(Braunstein\)/S.1693-A \(Krueger\)](#)

*Summary:* Requires a medical facility or related services to obtain express prior written consent before the making and/or broadcasting of visual images of a patient's medical treatment.

*Position:* Concerns

*Outcome:* Advanced to and remained on the Assembly and Senate Floor Calendars.

**Resident Bill of Rights**

[A.866-B \(Simotas\)/S.2912-B \(Hoylman\)](#)

*Summary:* Establishes the lesbian, gay, bisexual, and transgender long-term care facility residents' bill of rights.

*Position:* Concerns

*Outcome:* Advanced and remained in the Senate Rules Committee. Remained in the Assembly Aging Committee.

**Telehealth Coverage by Home Care Providers**

[S.888 \(Young\)](#)

*Summary:* Provides for the delivery and insurance coverage of telehealth services by means of home care services.

*Position:* Support

*Outcome:* Remained in Senate Health Committee.

**TBI-DD Integration**

[S.992 \(Young\)](#)

*Summary:* Enables individuals with a traumatic brain injury (TBI) sustained after the age of 21 to access developmental disabilities (DD) services.

*Position:* [Support](#)

*Outcome:* Advanced to and remained in the Senate Finance Committee.

**Antipsychotic Use in Nursing Homes and ACFs**

[A.1033 \(Gottfried\)/S.5441 \(Sepulveda\)](#)

*Summary:* Requires an enhanced level of informed consent before psychotropic medications can be prescribed for patients residing in nursing homes or ACFs.

*Position:* [Oppose](#)

*Outcome:* Passed the Assembly and remained in the Senate Health Committee.

**Telehealth Payment Parity**

[S.1043 \(Young\)](#)

*Summary:* Requires that services provided via telehealth be reimbursed at the same rate as services provided in person.

*Position:* Support

*Outcome:* Remained in the Senate Health Committee.

**Quality Innovation and Improvement Through Home Care**

[A.1128 \(Gottfried\)](#)

*Summary:* Establishes the program of health care quality innovation and improvement through home care. The bill would promote a new quality measurement and analytical tool and guidelines/special trainings for staff.

*Position:* Support

*Outcome:* Remained in the Assembly Health Committee.

## **Notice of Assisted Living Facility Changes**

[A.1140 \(Rosenthal\)](#)

*Summary:* Requires assisted living facilities to notify residents of changes to medical and support services 180 days prior to such changes taking effect.

*Position:* Oppose

*Outcome:* Remained in the Assembly Health Committee.

## **DFS-Compliant Cybersecurity Policy for CCRCs**

[A.1185 \(Cahill\)](#)

*Summary:* Permits Continuing Care Retirement Communities (CCRCs) to adopt written cybersecurity policies and self-certify that such policies are not inconsistent with the goals of the cybersecurity regulations promulgated by the Department of Financial Services (DFS) in 2017.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly Insurance Committee.

## **Private Right of Action for Nursing Home Residents**

[A.1202 \(Gottfried\)/S.433 \(Hoylman\)](#)

*Summary:* Allows a nursing home patient's right to sue for injuries to be exercised by the patient's legal representative or estate.

*Position:* Oppose

*Outcome:* Remained in Assembly and Senate Health Committees.

## **RN at EALRs and SNALRs**

[A.1207\(Gottfried\)](#)

*Summary:* Requires a registered nurse to be on staff at facilities certified for enhanced assisted living or special needs assisted living.

*Position:* [Oppose](#)

*Outcome:* Remained in the Assembly Health Committee.

## **Community Paramedicine**

[A.1208 \(Gottfried\)/S.1805 \(Rivera\)](#)

*Summary:* Authorizes EMTs or advanced EMTs, acting as part of a collaborative program with other health care providers, to offer community paramedicine services within their existing scope of practice.

*Position:* Oppose

*Outcome:* Remained in the Assembly and Senate Health Committees.

## **Prevailing Wage**

[A.1261 \(Bronson\)/S.1947 \(Rivera\)](#)

*Summary:* Imposes public works “prevailing wage” requirements on most types of private sector projects receiving any level of financial support from state or local entities, including bond issuances, grants, tax abatements and other government assistance.

*Position:* [Oppose](#)

*Outcome:* Advanced and remained on the Assembly Floor Calendar. Remained in the Senate Labor Committee.

## **ACF and Nursing Home Closure Commission**

[A.1418 \(Simon\)](#)

*Summary:* Creates 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.

*Position:* [Oppose](#)

*Outcome:* Remained in the Assembly Aging Committee.

## **Role of the Nurse in Adult Care Facilities**

[S.1788 \(Rivera\)](#)

*Summary:* Allows adult care facility and assisted living settings to directly employ licensed practical nurses or registered nurses in order to provide nursing services.

*Position:* [Support](#)

*Outcome:* Remained in the Senate Health Committee.

### **Hospice in Assisted Living**

[S.1814 \(Rivera\)](#)

*Summary:* Allows Medicaid beneficiaries residing in Assisted Living Programs (ALPs) to access hospice services without having to transfer from the ALP.

*Position:* [Support](#)

*Outcome:* Remained in the Senate Health Committee.

### **Managed Long Term Care Plan Ownership**

[A.2406 \(Pichardo\)](#)

*Summary:* Amends the Public Health Law's definition of "eligible applicant" for certification as a Managed Long Term Care (MLTC) plan to require eligible insurers and health maintenance organizations to be not-for-profit. An exception would recognize entities already certified.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly Health Committee.

### **Medical Aid in Dying Act**

[A.2694 \(Paulin\)/S.3947 \(Savino\)](#)

*Summary:* Allows mentally competent, terminally ill individuals with a life expectancy of less than six months to request life-ending medication from their physician.

*Position:* No position

*Outcome:* Remained in the Assembly and Senate Health Committees.

### **Managed Long Term Care Plan Ownership**

[A.2797 \(Gottfried\)](#)

*Summary:* Amends the Public Health Law's definition of "eligible applicant" for certification as a Managed Long Term Care (MLTC) plan to require eligible insurers and health maintenance organizations to be not-for-profit. An exception would recognize entities already certified.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly Health Committee.

### **TBI/NHTD Managed Care Carve-Out**

[A.2798 \(Gottfried\)/S.1890 \(Rivera\)](#)

*Summary:* Allows individuals receiving Traumatic Brain Injury (TBI) and Nursing Home Transition and Diversion (NHTD) waiver services to continue to receive such services outside of managed care programs.

*Position:* [Support](#)

*Outcome:* Remained in the Senate Health and Assembly Ways and Means Committees.

### **Capital Funding for Assisted Living Programs**

[A.2906 \(Magnarelli\)/S.1806 \(Rivera\)](#)

[A.2889 \(Magnarelli\)](#)

*Summary:* The first bill adds the Assisted Living Program (ALP) as an eligible provider type under the Vital Access Provider (VAP) program. The second bill makes both ALPs and hospice providers eligible to apply for funding under the Statewide Health Care Facility Transformation Program.

*Position:* [Support](#)

*Outcome:* The first bill remained in the Assembly and Senate Health Committees. The second bill remained in the Assembly Health Committee.

### **Staffing Ratios**

[A.2954 \(Gunther\)/S.1032 \(Rivera\)](#)

*Summary:* Creates specific staffing ratios for nurses and other direct care staff in hospitals and nursing homes.

*Position:* [Oppose](#)

*Outcome:* Advanced and remained in Assembly Ways and Means Committee. Remained in Senate Health Committee.

### **Nursing Home-MLTC Rural Demonstration**

[A.2996 \(Jones\)/S.2933 \(Little\)](#)

*Summary:* Authorizes the Commissioner of Health to allow, in one or more rural areas, one or more MLTC plans to enroll Medicaid beneficiaries and retain existing enrollees who are permanently placed in a nursing home on a demonstration basis.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly and Senate Health Committees.

### **Overtime for Certified Nursing Assistants**

[A.3719 \(Gunther\)/S.965 \(Young\)](#)

*Summary:* Includes certified nursing assistants (CNAs) in provisions of law relating to restrictions on consecutive hours of work.

*Position:* [Oppose](#)

*Outcome:* Remained in the Assembly and Senate Labor Committees.

### **Hours Worked by Nurses**

[A.3756 \(Gunther \)/S.5678 \(Savino\)](#)

*Summary:* Adds home care visits to the existing law that no health care employer shall require a registered professional nurse or a licensed practical nurse to work more than that nurse's regularly scheduled work hours or home care visits.

*Position:* [Oppose](#)

*Outcome:* Remained in the Assembly and Senate Labor Committees.

### **Supplemental Security Income Increase for ACFs**

[A.3861 \(Magnarelli\)](#)

[A.6856 \(Amato\)](#)

[S.4416 \(Serino\)](#)

*Summary:* Increase the State portion of the Supplemental Security Income (SSI) Congregate Care Level 3 rate to enable ACFs to continue to care for SSI recipients.

*Position:* [Support](#)

*Outcome:* The first two bills remained in Assembly Social Services Committee. The third bill remained in the Senate Finance Committee.

### **TBI Certification or Professional License for Adult Care Facilities**

[A.4222 \(Weprin\)](#)

*Summary:* Requires certain residential adult care facilities to hold a specific TBI certification or professional license.

*Position:* Neutral

*Outcome:* Remained in the Assembly Health Committee.

### **ACF and Nursing Home Closure Commission**

[S.4232 \(Parker\)](#)

*Summary:* Creates 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.

*Position:* Oppose

*Outcome:* Remained in the Senate Aging Committee.

### **Study of Fees and Charges for Residents of Assisted Living Residences**

[A.4275 \(DenDekker\)/S.3066 \(Lanza\)](#)

*Summary:* Authorizes and directs the Department of Health and the State Office for the Aging to conduct a study of fees and charges assessed to residents of assisted living facilities.

*Position:* Oppose

*Outcome:* Passed the Assembly and remained in the Senate Aging Committee.

### **Affordable Independent Senior Housing Assistance Program**

[A.4358 \(Cymbrowitz\)/S.4538 \(Kavanagh\)](#)

*Summary:* Establishes an Affordable Independent Senior Housing Assistance Program to complement the State's historic commitment of \$125 million for senior housing capital and create a cost-effective model for seniors to age in place.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly and Senate Housing Committees.

### **Safety Violations in Adult Care Facilities**

[A.4416-B \(Gottfried\)/S.3460 \(Rivera\)](#)

*Summary:* Requires an annual audit of facilities that receive funds under the EQUAL program, increases maximum civil penalties for ACF violations from \$1,000 per day to \$5,000 per violation per day, and authorizes a pre-hearing suspension or limitation of an ACF's operating certificate in cases of imminent danger to residents.

*Position:* [Oppose](#)

*Outcome:* Advanced and remained on Senate Floor Calendar. Remained in Assembly Health Committee.



### **AEDs in Assisted Living Residences**

[A.4720 \(Englebright\)](#)

*Summary:* Requires assisted living residences to have an automated defibrillator on the premises.

*Position:* [Oppose](#)

*Outcome:* *Remained in the Assembly Health Committee.*

### **TBI-DD Integration**

[S.4805 \(Ranzenhofer\)](#)

*Summary:* Requires the Department of Health (DOH) to ensure to the extent practicable that adequate services are available to individuals with a traumatic brain injury (TBI), regardless of age, so long as the provision of such services does not displace any other developmental disabilities (DD) patients from receiving OPWDD services.

*Position:* [Support](#)

*Outcome:* *Advanced and remained in Senate Finance Committee.*

### **Affordable Senior Housing and Services Program**

[A.4974 \(Cymbrowitz\)/ S.5269 \(Kavanagh\)](#)

*Summary:* Establishes an Affordable Senior Housing and Services Program with its own rules and scoring criteria and provides for optional basic healthy aging services for senior housing residents.

*Position:* [Support](#)

*Outcome:* *Remained in the Assembly and Senate Housing Committees.*

### **ESDC Study on DOL Call-In Regulations**

[A.5155 \(Schimminger\)/S.1911 \(Funke\)](#)

*Summary:* Delays implementation of the Department of Labor (DOL) employee call-in regulations until at least 90 days after completion of a study on the potential impact conducted by the Empire State Development Corporation.

*Position:* [Support](#)

*Outcome:* *Remained in the Assembly Labor Committee and the Senate Corporations Authorities & Commissions Committee.*

### **Independent Senior Housing Resident Freedom of Choice Act**

[A.5158 \(Cymbrowitz\)/S.897 \(Young\)](#)

*Summary:* Clarifies that individuals living in senior housing have the right to access and obtain the same services that they would if they were an individual residing in the community, from the provider of their choosing.

*Position:* [Support](#)

*Outcome:* *Remained in the Assembly and Senate Aging Committees.*

### **Violations in Residential Care Programs**

[A.5609 \(Weinstein\)/S.4722 \(Carlucci\)](#)

*Summary:* Prevents the use of property guardianships under Article 81 of the Mental Hygiene Law by nursing homes and other providers to pursue payment from incapable residents for their services, when the residents or their representatives fail to pay for such services.

*Position:* [Support Intent](#)

*Outcome:* *Advanced to Senate Floor Calendar and remained in Senate Judiciary Committee.*

### **Adult Care Facilities and Temporary Operators**

[A.5616 \(Weinstein \)/S.4486 \(Carlucci\)](#)

*Summary:* Establishes a cause of action by residents of adult care facilities to petition for appointment of a temporary operator.

*Position:* [Oppose](#)

*Outcome:* *Advanced to the Assembly Floor Calendar and was laid aside. Remained in Senate Health.*

### **Personal Needs Allowance for Nursing Home Residents**

[A.5689 \(Titus\)/S.1211 \(Ritchie\)](#)

*Summary:* Increases the monthly personal needs allowance for nursing home residents who are receiving or eligible to receive additional state payments.

*Position:* [Support](#)

*Outcome:* *Remained in the Assembly Social Services and Senate Health Committees.*



## **Criminal History Record Checks for ACF Employees**

[A.6040 \(Lawrence\)](#)

*Summary:* Provides for criminal history background checks of supportive maintenance employees in ACFs and assisted living facilities, similar to checks completed on nursing home employees.

*Position:* [Oppose](#)

*Outcome:* Remained in the Assembly Health Committee.

## **Medication Aides in St. Lawrence County Nursing Homes**

[A.6250 \(Walczyk\)/S.1199 \(Ritchie\)](#)

*Summary:* Authorizes a demonstration program to test the use of medication technicians in nursing homes in St. Lawrence County.

*Position:* [Support](#)

*Outcome:* Remained in the Assembly and Senate Higher Education Committees.

## **Security Deposits**

[A.6517 \(Cymbrowitz\)/S.4110 \(Kavanagh\)](#)

*Summary:* Limits security deposits to an amount or value not more than two months' rent, including the first month's rent. Proposal would have unintentional consequences for retirement housing communities.

*Position:* [Concerns](#)

*Outcome:* Remained in the Assembly and Senate Judiciary Committees.

## **Automatic Dispensing Machines**

[A.7806 \(Gottfried\)/S.6011 \(Rivera\)](#)

*Summary:* Permits the storing of prescribed drugs that have been lawfully dispensed by a pharmacist, intended only for a nursing home resident, in an automatic dispensing machine within the nursing facility.

*Position:* Oppose

*Outcome:* Advanced and remained on the Senate Floor Calendar. Remained in the Assembly Higher Education Committee.