

December 28, 2020

Dear Members:

The 2020 Legislative Session drew to an unofficial close in July. However, over the subsequent months, lawmakers held several hearings, continued to introduce new legislation, and ultimately held special legislative sessions to address the housing eviction moratorium and virtual legislative proceedings for 2021. LeadingAge New York has developed this comprehensive document summarizing the health, housing, and long term care legislation that we followed over the course of the 2020 legislative session and the remainder of the year. As you will see, due to the emergence of the COVID-19 public health emergency in early March, most of our priority legislation either remained in committee or was only passed by one house.

In the face of the pandemic, both the Legislature and LeadingAge NY turned its focus to COVID-19 related legislation for the better part of the year. LeadingAge NY successfully advocated against many proposals aimed at long term care providers, including a retroactive repeal of the liability protections that were granted to healthcare providers as part of the State Fiscal Year 2020-21 Budget. Thanks to your advocacy, the immunity repeal bill was amended to be prospective, limiting its harmful impact on providers. This and other successes would not have been possible if it were not for your ongoing advocacy efforts. ***Thank you for all of your help!***

Advocacy and public policy work in 2021 will no doubt be different than previous years. The Legislature plans to return to work on January 6th, however, the [2021 legislative session](#) will be mostly virtual and safety protocols such as social distancing and mask wearing will remain in use. Advocates will continue to rely on virtual platforms, letter writing and phone calls to get in touch with lawmakers. Meanwhile, there are brand new members of the Assembly and State Senate. Whether old or new, lawmakers will need to be continually informed of the challenges affecting long term care providers and the seniors they care for. The importance of legislators knowing who you are and the role your organization plays in the community at large cannot be overstated.

As we gear up for the new legislative session just weeks away, please consider how you plan to connect with lawmakers and advocate for the individuals you serve. Of course, LeadingAge NY will be here for you as a resource, organizer, and supporter of all advocacy endeavors. If you have any questions or concerns about the bills mentioned in this document or would like to discuss advocacy initiatives, please feel free to contact the Advocacy and Public Policy team at 518-867-8383.

As always, we will continue to keep you apprised of any legislative or regulatory updates. Be on the lookout for the return of our Friday publication - the Legislative Bulletin – returning on Friday, January 8, 2021.

Lastly, thank you again for your advocacy efforts and the fantastic care you continue to provide under impossibly challenging conditions. ***We look forward to working with you and for you in the year ahead.***

Happy Holidays and Happy New Year,

Ami Schnauber

LeadingAge New York
Legislative Bill Summary
December 2020
Passed Both Houses

These bills have passed both the Assembly and Senate and have either been signed into law by the Governor or are awaiting Governor signature.

Residential Eviction Moratorium

[A.10290B \(Dinowitz\)/S.8192B \(Hoylman\)](#)

Summary: Provides that no court shall issue a warrant of eviction or judgment of possession against a residential tenant that has suffered a financial hardship for the non-payment of rent that accrues or becomes due during the COVID-19 covered period.

Position: Concerns

Outcome: Signed by Governor 6/30/20

Whistleblower Bill

[A.10326-A \(Reyes\)/S.8397-A \(Savino\)](#)

Summary: Prohibits health care employers from penalizing employees because of complaints of employer violations

Position: No Position

Outcome: Signed by Governor 6/17/20

Pandemic Emergency Plan

[A.10394-A \(Lentol\)/S.8289-B \(Salazar\)](#)

Summary: Requires residential health care facilities to submit an annual pandemic emergency plan to the commissioner of health. Requires such plan to include a communication plan with families, plans to protect staff, residents and families against infection, and plans to preserve a resident's place at the facility if he or she is hospitalized.

Position: [Concerns](#)

Outcome: Signed by Governor 6/17/20

Frontline Workers Trauma Informed Care Advisory Council

[A.10629-A \(Gunther\)/S.8608-A \(Carlucci\)](#)

Summary: Establishes an advisory council within the Office of Mental Health that would ensure the trauma related behavioral health needs of essential workers during the COVID-19 pandemic are met.

Position: Support

Outcome: Signed by Governor 11/27/20

Partial Repeal of Liability Protections for Health Care Providers

[A.10840 \(Kim\)/S.8835 \(Sepulveda\)](#)

Summary: Prospectively modifies Public Health Law, limiting immunity from liability protections granted to nursing homes and other health care providers for certain acts or omissions occurring during the period of the state COVID-19 disaster emergency.

Position: [Oppose](#)

Outcome: Signed by Governor 8/3/20

COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020

[A.11181 \(Dinowitz\)/S.9114 \(Kavanagh\)](#)

Summary: Ensures that both tenants and homeowners can stay in their homes by putting a temporary stay on evictions and residential mortgage foreclosures until May 1, 2021 for those who can attest that financial hardship prevents them from being able to pay their mortgage or rent.

Position: No Position

Outcome: Passed Senate and Assembly 12/28/20

**LeadingAge New York
Legislative Bill Summary
December 2020**

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-B \(Braunstein\)](#)

[S.1693-B \(Krueger\)](#)

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 Floor Calendar.*

Nursing Home Closures

[A.710-A \(Niou\)/S.4861-A \(Kavanagh\)](#)

Summary: Amends Public Health Law to strengthen oversight over nursing homes by creating a transparent process when nursing homes are threatened in New York City.

Position: No Position

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

Resident Bill of Rights

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

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

Position: Concerns

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

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.*

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.

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.

Payments to HCBS

[A.2788-A \(Gottfried\)/S.4972-A \(Rivera\)](#)

Summary: Amends Public Health Law to assure that Medicaid managed care plans pass through in whole the money provided by the state to finance the incremental advancements in minimum wage.

Position: No Position

Outcome: Advanced and remained on Senate Floor Calendar. Advanced and remained in Assembly Ways and Means Committee.

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

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 Assembly Rules and Senate Health 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.

Assisted Living Residence Closures

[A.3050-A \(Simon\)/S.4609-A \(Savino\)](#)

Summary: Specifies procedures for the closure and/or decertification of assisted living residences.

Position: No Position

Outcome: Advanced and passed in the Assembly. Remained in Senate Aging Committee.

Private Duty Nursing

[A.3415-A \(Abinanti\)/S.3339-A \(Thomas\)](#)

Summary: Provides a mechanism for a Medicaid recipient who is authorized to receive in-home private duty nursing services to receive such services from a relative who is a registered professional nurse.

Position: No Position

Outcome: Remained in Assembly Ways and Means Committee. Advanced and remained on Senate Floor Calendar.

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.

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-C \(Gottfried\)/S.3460-A \(Rivera\)](#)

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 in Assembly Codes Committee. Remained in Senate 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.

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: Passed in the Assembly. Remained in the Senate Mental Health and Developmental Disabilities 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 the Senate Health Committee.

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.

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: Remained in the Assembly and Senate Higher Education Committees.

Publication of Nursing Home Ratings

[A.8270-A \(Dinowitz\)/S.8461 \(Sanders\)](#)

Summary: Require nursing homes and the Department of Health (DOH) to prominently post Centers for Medicare and Medicaid Services (CMS) 5-star ratings on their respective websites.

Position: [Oppose](#)

Outcome: Remained in Senate and Assembly Health Committees.

PPE Payments for Home Care Workers

[A.10451 \(Gottfried \)/S.8361 \(Rivera\)](#)

Summary: Requires MLTCs to reimburse home care agencies and FIs for patient protective equipment (PPE) costs and a 90 day inventory.

Position: [Concerns](#)

Outcome: Advanced and passed in Senate. Remained in Assembly Health Committee.

TBI Medical Assistance Eligibility

[A.10486 \(Gottfried\)/S.8403 \(Rivera\)](#)

Summary: Provides eligibility for medical assistance for personal care services for persons with traumatic brain injury, developmental disability, cognitive impairments, blindness or visual impairment.

Position: [Support](#)

Outcome: Advanced and Passed in Senate. Remained in Assembly Ways and Means Committee.

HCBS Eligibility Look-Back Period

[A.10489 \(Gottfried\)/S.8337 \(Rivera\)](#)

Summary: Relates to the definition of the "look-back period" for the determination of eligibility of an individual for medical assistance benefits and exempts certain assets used on the individual's behalf.

Position: No Position

Outcome: Advanced and Passed in Senate. Remained in Assembly Ways and Means Committee.

Transition to Adulthood for Children with Medical Fragility

[A.10635 \(Sayegh\)/S.8779 \(Stewart-Cousins\)](#)

Summary: Aids in the transition to adulthood for children with medical fragility living in pediatric nursing homes and other settings.

Position: Support

Outcome: Remained in Assembly Health and Senate Rules Committee.

Nursing Home Transfer and Discharges

[A.10799 \(Hevesi\)/S.8764 \(Rivera\)](#)

Summary: Establishes requirements for the transfer, discharge and voluntary discharge from residential health care facilities.

Position: [Oppose](#)

Outcome: Advanced and remained on Assembly Calendar. Remained in Senate Rules Committee.

Long Term Care Task Force

[A.10836 \(Cruz\)/S.8633 \(May\)](#)

Summary: Enacts the "reimagining long-term care task force act" to create a task force to study the state of long-term care services in this state.

Position: [Support](#)

Outcome: Passed Senate. Remained in Assembly Aging Committee.

Nursing Home Virtual Visitation Act

[A.10968 \(Bronson\)/S.8591 \(May\)](#)

Summary: Establishes certain provisions to enhance the ability of nursing home residents and their families to connect virtually by allowing the installation of remote monitoring and video conferencing equipment.

Position: Concerns

Outcome: Remained in Assembly Health and Senate Rules Committees.

Authorization of Personal Care Visitors

[A.11075 \(Bronson\)/S.8958 \(May\)](#)

Summary: Authorizes and directs the department of health to develop rules, regulations and guidelines authorizing and regulating the visitation of personal care visitors and short-term compassionate care visitors at nursing homes.

Position: Support

Outcome: Remained in Assembly Health and Senate Rules Committees.

Parking Placards for Home Care Workers

[S.7809 \(Kennedy\)](#)

Summary: Authorizes the use of parking placards for physicians, nurses or chiropractors when making home health visits. Placards will allow healthcare workers to park in otherwise prohibited parking areas for up to an hour.

Position: Support

Outcome: Remained in Senate Transportation 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: Remained in Senate Finance 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.

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.

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.

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.