

December 4, 2024

The Honorable Kathy Hochul
Governor
NYS State Capitol
Albany, NY 12224

Re: A.9718-B (Paulin)/S.9067-A (Krueger)

Dear Governor Hochul,

LeadingAge New York and its not-for-profit, mission-driven members write to you today in opposition to A.9718-B (Paulin)/S.9067-A (Krueger), which would require general hospitals and nursing homes to establish pressure ulcer prevention programs. The care and well-being of residents is of utmost importance to the nursing homes in our membership, and they recognize the importance of active and ongoing attention to pressure ulcer prevention and treatment. While we share the goal of improving pressure ulcer care, we must oppose this bill because it is unnecessary. There are already rigorous requirements and incentives in place, under State and federal regulations, to encourage best practices in pressure ulcer prevention and treatment in nursing homes. This bill will only lead to additional, unproductive administrative responsibilities for nursing home leaders without affecting the quality of care experienced by residents. Thus, LeadingAge New York urges that this bill be vetoed.

First, the goals of this legislation are addressed by federal and State regulations and extensive federal guidance that address pressure ulcer care in nursing homes. State and federal regulations specify that nursing homes must ensure that residents receive care to prevent pressure ulcers and that residents with pressure ulcers receive necessary treatment and services to promote healing and prevent the development of new ulcers. (42 CFR §483.25 (b), 10 NYCRR §415.12). Further, the CMS State Operations Manual (SOM), which provides the protocols, standards, and interpretive guidance used in conducting nursing home surveys (i.e., inspections) and in guiding the activities of nursing home leaders, includes more than 20 pages on pressure ulcer care in nursing homes. The SOM covers a variety of topics related to pressure ulcer prevention and treatment, including the staging of pressure ulcers/pressure injuries (PU/PIs) to determine the extent of tissue injury in accordance with standards of professional practice; prevention of PU/PIs; assessment to identify residents at risk and residents with existing PU/PIs; risk factors and strategies to mitigate risks; resident's rights to make choices about care and treatment of PU/PIs including declining specific treatments; PU/PIs at end of life; infections; the healing process; and dressings and treatments. Nursing homes that fail to meet these standards face survey deficiencies, reduced CMS Star ratings, monetary penalties, and potentially loss of their authority to operate.

In addition, the CMS 5 Star rating system incorporates two quality measures specific to pressure ulcers that drive a total of 200 points – representing a significant portion of each facility's quality score:

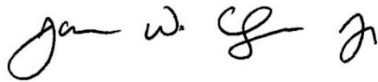
- Short Stay: Percentage of residents with pressure ulcers/pressure injuries that are new or worsened
- Long Stay: Percentage of long-stay, high-risk residents with pressure ulcers

The long stay measure is also factored into facilities' monetary awards under the State's Nursing Home Quality Initiative.

As a result of these State and federal initiatives, nursing homes are already engaged in concerted and consistent efforts to prevent and treat pressure ulcers. Accordingly, an additional State requirement to establish pressure ulcer prevention programs would not contribute to the quality of care experienced by residents, but would nevertheless result in new administrative responsibilities that would divert nursing home leaders from critical issues that do have an impact on residents. It is important to recognize that when the State enacts laws imposing requirements on nursing homes, including laws that duplicate federal requirements, it imposes new administrative tasks, in addition to what is required by federal regulations, to document compliance. These tasks typically involve submission of copious policies and procedures, photographs, contracts, staff lists, data, etc., often via an outdated and cumbersome technology platform that does not even allow work in progress to be saved.

In the context of widespread staffing shortages and an overwhelming array of federal, State, and local regulations, we cannot support duplicative requirements that will only divert nursing home leaders from responsibilities that have a real impact on the residents they serve. For these reasons, LeadingAge New York opposes A.9718-B (Paulin)/S.9067-A (Krueger) and requests it be vetoed.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Clyne, Jr.", written in a cursive style.

James W. Clyne, Jr.
President and CEO
LeadingAge New York