

## MEMORANDUM

A.203-A (Cruz) / S.5294-A (Sepulveda)

***AN ACT to amend the public health law, in relation to requiring hospitals to develop a violence prevention program***

LeadingAge New York opposes this legislation, which amends Public Health Law to require nursing homes and hospitals to conduct a workplace safety and security assessment, develop a safety and security plan that addresses workplace violence threats and hazards, and adopt security measures and policies to prevent or minimize identified threats or hazards. Protecting the safety of residents, staff and visitors is among the highest priorities of New York’s nursing homes. However, this bill will only serve to replicate equivalent planning and training requirements applicable to nursing homes, while imposing new state-driven documentation and administrative burdens, without contributing in a meaningful way to workplace safety. The bill will add to the growing array of similar state and federal administrative requirements that divert attention and resources from resident care and staff support.

Although some observers may believe that adding requirements in state law that are similar, but not identical, to federal requirements will help to solve problems in the field without requiring significant resources, that is not accurate. When requirements such as these are enacted in state law, regulators assume that the Legislature intended to impose *new* requirements. Accordingly, New York’s regulators impose new administrative processes and new documentation submission, review, and correction requirements, all to be completed on a schedule developed by those regulators. Often, they will dictate the content of these submissions in non-substantive ways or in ways that vary from federal requirements, forcing facility leaders to reconcile inconsistent regulatory directions. These administrative processes and documentation add to the existing responsibilities of facility leaders and take them away from meaningful, real-world strategies to improve safety and quality of life, such as recruitment and retention of staff, enhanced supervision and training, and addressing resident-specific health, mental health, and social issues.

Specifically, nursing homes are required by federal regulation to develop both an emergency preparedness assessment and plan and a separate “facility assessment,” each of which must be reviewed and updated at least annually.<sup>1</sup> The emergency preparedness plan must be based on a documented facility-based and community-based annual all-hazards risk assessment. The separate facility assessment required of nursing homes (but not hospitals) must be developed with “active involvement” of leadership and management; ***direct care staff***, including but not limited to, RNs, LPNs, nurse aides, and ***representatives of the direct care staff***, if applicable; and residents, resident representatives, and family members. The facility assessment must inform contingency planning, as well as facility staffing, recruitment and retention issues.

<sup>1</sup> Hospitals must update their emergency preparedness plans only once every 2 years.

Both the emergency preparedness planning and facility assessment requirements are set forth in federal regulations and enforced through regular inspections of nursing homes (required every 12-15 months). In implementing these requirements, nursing homes and state surveyors follow extensive guidance in the CMS State Operations Manual, Appendix Z and Appendix PP.

This bill will not meaningfully promote workplace safety. Along with several other recently enacted state laws and pending bills, it will have the unintended consequence of taking attention away from resident care and staff support in order to respond to new administrative and paperwork demands. In the context of inadequate nursing home reimbursement, staffing shortages, and a shrinking number of nursing home beds and growing list of closures, the state should be seeking to reduce administrative and paperwork requirements, not pile them on.

**For these reasons, we urge the Legislature to oppose A.203-A (Cruz).**

*LeadingAge New York represents approximately 350 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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