

MEMORANDUM

A.600 (Hevesi)/S.8286 (Addabbo)

AN ACT to amend the public health law, in relation to establishing staffing standards for physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, respiratory therapists, respiratory therapy technicians, and recreational therapists at nursing homes

LeadingAge New York, and its not-for-profit and government-sponsored members, support this bill which would enable hours of care provided by therapy staff to be counted toward nursing home minimum staffing standards. Physical therapists, occupational therapists, respiratory therapists, recreational therapists, therapy assistants and technicians are critical members of the nursing home interdisciplinary team providing hands-on care and helping to ensure the best outcomes for residents. As such, these professionals should be counted toward the state's staffing standards which currently only count hours worked by registered nurses (RNs), licensed practical nurses (LPN), and certified nurse aides (CNAs).

New York's nursing home staffing standards, implemented in 2022, require homes to provide at least 3.5 hours of nursing care per resident per day. The 3.5 hours per resident per day (HPRD) must include at least 2.2 hours of care provided by a certified nursing assistant (CNA) and at least 1.1 hours of care provided by a licensed nurse (i.e., RN or LPN). While nursing staff is important, resident needs vary and nursing homes implement care plans based on these individual resident needs. By focusing exclusively on care provided by nursing staff, the staffing standard fails to recognize other staff who provide hands-on care and play a significant role in the wellbeing of residents. Key among these are licensed therapists as well as therapy assistants and technicians which this bill addresses. Licensed therapists are professionals with educational requirements comparable to nurses, while therapy aides and technicians perform duties similar to CNAs.

Nursing homes serve as permanent homes for long-term residents, as well as short-term rehabilitation facilities for those needing post-acute care after a hospital stay. Based on their need, many nursing home residents commonly spend an hour or more each day with therapy staff. Residents derive significant benefits from the social and cognitive stimulation and physical activity provided through recreation therapy. Physical and occupational therapy staff often help residents to perform activities of daily living (ADLs), such as dressing, bathing, toileting, walking, and eating, and often fulfill responsibilities typically performed by CNAs.

Excluding these therapy hours of care is counterproductive. It creates a one-size-fits-all approach that is blind to individual resident needs and provides nursing homes with an incentive to replace therapy hours, that may be of greater benefit to the resident, with mandated nurse and aide hours. Counting therapy hours would not reduce staff time spent with residents – it would just better reflect the actual care being provided and the care that each resident needs.

New York's limited definition of countable staff hours for purposes of its nursing home staffing mandate means that many homes that are doing their best to staff appropriately nevertheless face penalties of up to \$2000 per day. At the same time, most nursing homes are struggling financially, due to inadequate Medicaid rates and the challenge of offering competitive wages in today's labor market. In an effort to comply with state staffing standards, nursing homes are spending down their limited resources to offer attractive wages, while simultaneously limiting admissions, closing units, or taking beds out of operation. Including therapists in the state staffing calculation would help to address these concerns.

New York's population of older adults is increasing rapidly, and the number of New Yorkers who will need some form of long-term care is growing. Access to quality nursing home care is already being challenged due to inadequate Medicaid funding and the limited availability of workers. Using a one-size-fits-all approach for nursing home staffing that does not consider varying resident needs and ignores the care provided by therapy staff is ill-advised, particularly in light of a nationwide healthcare workforce shortage.

This bill would appropriately recognize therapy staff as essential to nursing home care teams, and as such, would allow them to be included within the nursing home staffing standard requirements. It would facilitate a professional caregiver mix most appropriate to resident needs, and would more appropriately target staffing penalties at homes that are not providing necessary hours of care through nursing or therapy staff.

For these reasons, LeadingAge New York strongly supports A.600 (Hevesi)/S.8286 (Addabbo).

LeadingAge New York represents over 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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