

## MEMORANDUM

### A.8738 (Bronson)/S.8222 (Brouk)

***AN ACT to amend the public health law, in relation to reimbursement rates for certain programs established by not-for-profit and public skilled nursing facilities in upstate New York nursing home regions***

LeadingAge New York, and its not-for-profit and government-sponsored members, support this bill which would facilitate and encourage not-for-profit and public nursing homes in upstate regions to collaborate on the quality of nursing home care, while ensuring appropriate program safeguards to prevent anti-competitive practices. Although the caption suggests that the bill has reimbursement implications, it does not: it would simply pave the way for collaborations among mission-oriented providers aimed at improving nursing home efficiency, staffing and quality of care. It would do so by authorizing the Commissioner of Health to review and approve these programs to allow providers within a region to cooperate without risking potential antitrust liability.

The bill would offer an opportunity for upstate providers to collaborate with other organizations on quality, similar to a program available to downstate not-for-profit providers. The Collaborative to Improve Nursing Home Efficiency, Reduce Avoidable Hospitalizations, Guarantee Access, and Yield Area-Wide Performance Improvement (CINERGY) is a multi-year effort to sustain a strong community of not-for-profit nursing facilities in the New York City metropolitan area through collaborative initiatives to improve quality, efficiency, and financial performance. The program is operationalized through an Independent Practice Association (“IPA”) which provides the legal structure for the collaborative efforts. The IPA affords antitrust protection permitting nursing homes to work collaboratively on quality metrics and, to the extent necessary, collectively contract with managed care plans in developing the metrics. This bill would allow the Commissioner to approve similar programs in other areas of the state once those programs demonstrate to the satisfaction of the Commissioner that they are designed to improve quality and that they include structural safeguards to prevent collusion or anti-competitive practices.

While not-for-profit and public homes typically provide higher nurse staffing levels and outperform their peers on most quality measures, they face increasing existential challenges. These include wage and benefit cost increases well above inflation, while Medicaid rates cover less than 75 percent of costs; the need for renovation and improvement dollars while facing capital funding cuts; and staffing mandates despite a persistent staffing crisis. Over 90 non-profit homes have closed or have been sold in the last 10 years. Four have closed in the last 12 months, all upstate. Many more are at risk. In the absence of appropriate State investment in quality nursing home care, the State, at minimum, should promote viable strategies that encourage providers to achieve efficiencies and maintain quality care. The collaborations that this bill would promote represent one such strategy that deserves support.

**For these reasons, LeadingAge New York strongly supports A.8738 (Bronson)/S.8222 (Brouk).**

*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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