

July 30, 2019

The Honorable Zackary Knaub
Acting Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

RE: A. 4757-A (Gottfried)/ S.5908 (Rivera)

Dear Mr. Knaub:

The New York State Health Facilities Association/New York State Center for Assisted Living (NYSHFA/NYSCAL), a statewide association of providers of long term care services, caring for individuals of all ages in proprietary, not-for-profit, and government-sponsored skilled nursing, post-acute, rehab, adult care and assisted living communities across the State of New York, opposes A.4757-A (Gottfried)/S.5908 (Rivera).

NYSHFA/NYSCAL does not object to the bill in its entirety, but there are provisions in this legislation that present serious concerns, particularly the provision that refers to “minimum staffing levels.” For this and the following reasons, **NYSHFA/NYSCAL opposes this legislation.**

Section One of the bill changes the definition of “physical abuse” to “abuse” and includes the misappropriation of resident property in this new definition. Not only are the definitions inconsistent with the federal definitions of abuse, neglect and misappropriation of property, it also would impose different timeframes for reporting. These inconsistencies add to existing confusion that surrounds reporting requirements and NYSHFA/NYSCAL urges prioritizing legislation that provides clarity for abuse standards and reporting requirements.

NYSHFA/NYSCAL does not object to the use of Independent Quality Monitors, though there are concerns with Section Two as currently drafted. The bill requires written mandatory corrective plans to include caps on administrative and general costs that are unrelated to providing direct care, “including providing at least minimum staffing levels as determined by the Department.” NYSHFA/NYSCAL has serious concerns with this provision, as no definition currently exists in law or regulation for “minimum staffing levels.” In fact, a provision in the

enacted SFY 2019-20 Budget directs the Department of Health to commence a study to examine how staffing enhancements and other initiatives could be used to improve patient safety and the quality of healthcare service delivery in hospitals and nursing homes. Findings from the study are due at the end of the year, and to enact a law that imposes the reporting of minimum staffing levels while the State simultaneously conducts a study to determine if those levels should even exist in law at all is problematic.

Section Three of the bill relates to financial asset control, and among other things requires nursing home operators to notify the Department of Health of any common or familial ownership and to attest annually to this information's accuracy, and while NYSHFA/NYSCAL does not object to reporting this information, there are concerns that the Department may not have the ability to manage this information as would be necessary. Furthermore, the provisions relating to debt agreements are written so broadly it is unclear what situation the bill is attempting to address. This provision also fails to acknowledge that many transactions entered into by operators are with entities that are not subject to establishment approval and could hinder efforts to expand access to services. For example, an operator wishing to purchase a bus or vehicle for transporting residents would be prevented from doing so if there was an outstanding debt or obligation on the bus, as there is no 'establishment approval' for motor vehicles.

If enacted, this legislation is likely to cause confusion and disruption in the delivery of long-term care. Long-term care providers have very real concerns with A.4757-A/S.5908 and as such NYSHFA/NYSCAL urges that it be **rejected**.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. B. Hanse', with a long horizontal flourish extending to the right.

Stephen B. Hanse
President & CEO
NYSHFA/NYSCAL