

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

URGENT ALERT: SPEAK OUT ON NY NURSING HOME STAFFING BILL

April 27, 2021 – The New York State Legislature has introduced nursing home staffing legislation which, for the first time, has a reasonable chance of passing into law. Though LTCCC has advocated for decades for numerical staffing standards in New York and nationally, we unfortunately cannot support this bill (A07119/S06346) in its current form because **1) Its staffing minimum is too low; 2) It has too many loopholes; and 3) It does not include mandatory penalties.** (See below for explanations).

The COVID pandemic has demonstrated the need to address years of low staffing and inadequate oversight in our nursing homes. Now is the time for residents, families, and those who work with them to take action and [contact their Assembly members, Senators, and the Governor's office](#) and urge them to promulgate meaningful protections and accountability.

LTCCC's three concerns over [New York's staffing bill](#):

1. Low staffing requirement. The bill calls for nursing homes to provide 3.5 hours of nursing staff time per resident per day (HPRD). This is well below the 4.1 HPRD recognized in a [landmark federal study](#) as necessary just to meet the basic clinical needs of a typical nursing home resident. Furthermore, though studies have demonstrated that a meaningful registered nurse (RN) presence is absolutely critical for resident safety (including in protecting residents during the COVID pandemic), this bill provides no minimum requirement for an RN. Instead, it leaves it to facilities to use any combination of RN/LPN that they like. This opens the door for facilities to maximize profits (which are already high) by using more LPNs and fewer RNs. [For reference, the aforementioned federal study identified a minimum of .75 HPRD of RN time as necessary.] Despite these serious drawbacks, we would likely have supported 3.5 HPRD as a good first step toward improved resident safety except that there are...

2. Too many loopholes. The bill directs the Department of Health (DOH) to establish a system of penalties that account for “mitigating factors.” **In plain English, this means that there would be a host of excuses that facilities could rely on to have even less than 3.5 HPRD and face no penalty whatsoever.** Do residents’ needs change when a facility has so-called “mitigating factors”? *NO*. Do NY taxpayers give nursing homes less money when there are “mitigating factors”? *NO*. Highly paid nursing home industry lobbyists have been pedaling dishonest and cynical excuses for failing to provide low staffing for the last 40+ years. Isn’t it time that WE just say *NO*?

3. No mandatory penalties. LTCCC’s studies over the years have consistently shown that DOH rarely levies a penalty against a nursing home, even when substandard care has resulted in terrible pain, humiliation, or death. In the absence of mandatory penalties for low staffing, it is hard to imagine a scenario in which a facility would face a meaningful penalty for inadequate staffing. [In fact, DOH can already issue fines when nursing homes have inadequate staffing but, because they are not mandatory, DOH does not do so.]

Your voices have made a difference and continue to be needed! Help us make a difference by [contacting your legislators today](#).