

July 28, 2020

Senate-Assembly Public Hearings scheduled on August 3, 2020 and August 10, 2020

Dear Senators and Assemblymen,

My mother is in a nursing home in the Adirondacks, New York.

I urge you to support legislation which repeals Article 30-D of the Public Health Law (colloquially known as the Emergency or Disaster Treatment Protection Act) with the intent of holding health care facilities, administrators and executives accountable for harm and damages incurred. A10427 (Kim)/S8497 (Biaggi) repeals a provision in the budget that prevents residents from suing nursing homes for negligence during the Covid-19 pandemic. I believe that the Emergency or Disaster Treatment Protection Act does more to help the owners of nursing homes than it does to protect the residents and staff.

There is a high turnover of staff at the nursing home that my mother is in and it is and has been chronically understaffed now and prior to the pandemic. Staffing is my biggest concern and the biggest concern of most of the families of the residents. There is no minimum number of nurse and nursing assistant hours per resident/day required in nursing homes by the federal government. In the facility that my mother is in there is one certified nursing assistant (CNA) for 15 residents in the evening and on most weekends during the day and evening. There are also many weekdays when there is one CNA for 15 residents. My mother has advanced dementia and is on a unit with dementia residents. It is virtually impossible for one CNA to meet the needs of 15 residents during the day or the evening. As far as infection control I believe that limited staffing contributes to infection. Schedules are frequently changed and CNAs' and nurses are pulled to other units because of call outs and limited staffing on other units. There is no guarantee that staff working with very sick and highly infectious residents won't be required to work on another unit the next day with different residents. When staff is overworked they take short cuts and pay less attention to detail or concerns. They are forced to prioritize and the needs and demands of the residents are compromised because of the staffing.

Governor Cuomo granting immunity to nursing homes is nothing short of criminal. During the pandemic there was and continues to be minimal oversight. Family and friends weren't able to visit and the visiting even now is extremely limited. State surveyors aren't doing surveys and ombudsmen, who are advocate for the residents were restricted from visiting. To give nursing homes immunity for damages and neglect during the pandemic is horrifying. If

there is an injury or infection or whatever the problem may be it should be investigated. It is a right that residents have. Residents have the right to be free of neglect and they have the right to receive quality care. If there is any concern regarding the wellbeing of residents it should be investigated. After all it is the taxpayer that is primarily paying for residents in nursing homes. Long-term care services are financed primarily by public dollars, Medicare and Medicaid, with the largest share financed through Medicaid. Total Medicaid spending in the United States is billions of dollars. The Social Security benefits that residents have earned are used to pay for long term nursing home care. Nursing homes are the most expensive form of caring for the elderly. Why then would we not hold nursing home owners accountable for substandard care? It is the owners of nursing homes that are ultimately responsible for the care the residents receive. And it is the owners of nursing homes who are ultimately responsible for a safe workplace for their staff.

Thank you for taking the time to consider the points made in this document.

Sincerely,

Sarina Nicola RN, MSN

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