

MEMO IN SUPPORT: A442/S124

DATE: January 26, 2016

TITLE OF BILL: An act to amend the public health law, in relation to remedies available in private actions by patients of residential health care facilities.

The LTC Community Coalition (LTCCC) strongly supports this legislation due to its importance in protecting the rights of families and representatives of nursing home residents who have been seriously harmed or died as a result of substandard care or abuse.

This bill provides an important clarification of the rights of family members and legal representatives of nursing home residents who have been the victim of serious abuse, substandard care or neglect. It is necessary to reconfirm an essential part of § 2801(d) of New York's public health law which has been erroneously interpreted by some courts to pertain only to residents who have been harmed, and not their families or representatives.

In particular, this bill is critical to ensure that when a resident has died as a result of substandard care, abuse or neglect, the resident's loved ones have the chance to be heard and hold the wrongdoers accountable. It is necessary to avoid the unintended consequence of a wrongdoer escaping accountability when a victim has died (for instance, when the neglect or abuse are so egregious that the resident has died as a result).

This bill also supports the strong public interest in improving accountability for the quality of services in nursing homes. Though tax payers pay for the majority of nursing home care, reports indicate that substandard care – and resultant harm to residents – are widespread and persistent. Our recent studies have indicated that almost one-in-five NYS nursing home residents receive dangerous antipsychotic drugs and almost one-in-ten have pressure ulcers. A 2014 federal study found that an astonishing one-third of short term rehab patients are harmed within a month of entering a nursing home. By improving accountability for serious neglect, abuse and harm, this bill will help ensure the integrity of billions of dollars New Yorkers spend on nursing home care every year.

The LTC Community Coalition (LTCCC) is a non-profit organization dedicated to improving care, quality of life and dignity for residents in nursing homes and other residential care settings. LTCCC conducts cutting edge research on the legal, regulatory and policy issues that effect resident care and the appropriate use of the public funds that pay for their care. We use our findings to develop recommendations to improve care and accountability for meeting minimum standards, and to educate policymakers, consumers and the public.