



Empire State Association of Assisted Living

Care • Community • Connections • Every Day

April 24, 2020

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dr. Howard Zucker MD, JD, LLM
Commissioner of the NYS Department of Health
Corning Tower Building, Empire State Plaza
Albany, New York 12237

Governor Cuomo and Commissioner Zucker:

I would like to set the record straight as it pertains to New York's assisted living and adult care facilities, who are members of the Empire State Association of Assisted Living.

From the beginning, public health experts predicted that the unprecedented novel coronavirus (COVID-19) would most severely impact seniors, especially those with underlying health conditions. Today, we know that to be true. Seniors, including those living in adult care and assisted living communities, are contracting the virus. And, the providers of those communities seem to have been set up to take the blame.

Since the outbreak began, our adult care facility (ACF) and assisted living facility (ALF) providers, and most importantly their dedicated and hardworking front-line staff, have done everything they can with the scarce resources available to them. Every day they come to work with the mission to take care of and protect residents from this brutal virus. They show up and give the residents everything that they've got. They are as much heroes as the other front-line workers saving lives every day. They would do even more if they were given the support that they deserve. Moreover, unlike other health care providers, these services are provided with little to no state or federal financial assistance. Imagine what it would feel like to do all this work, putting your own health at risk – but for all those efforts to be unrecognized and disrespected. It is time for our providers and their staff to be recognized for the critically important role they play in senior care, *every day*, not just during a pandemic.

Despite the foreshadowing that the virus would target frail seniors, ACFs and ALFs still have not received the help they need to obtain personal protective equipment (PPE), or the funding required to keep residents safe. ACFs and ALFs were only *recently* placed on the state's "priority list" to receive PPE in early April, and remain under-resourced. Hospitals were prioritized for the scarce supplies and, while they are certainly deserving and in need, the front-line staff in our assisted living communities, whose goal has always been to keep residents well and out of the hospital, were left with few or no facemasks, gowns, and other protective supplies. It is important to recognize that some of these supplies are not typically maintained in our settings and are kept in smaller supply to address outbreaks such as the flu. When our providers attempted to secure additional PPE through their private vendors to no avail, it took *several weeks* to get county and local offices of emergency

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management to even include them at the *bottom* of the priority list. Even now significant shortages remain.

Despite being at the bottom of the state's priority list for the necessary resources to protect our residents and staff from virus spread, with limited exceptions, our providers are directed by the Department of Health that they *cannot refuse* to accept residents back from the hospital solely on the basis that they are positive for COVID-19, untested, or tested with results pending.

Health and long-term care settings have been struggling to find staff for a long time. Some assisted living providers serving low-income residents already have existing staffing challenges due to chronic underfunding by the state over a long period of time. Now, because of COVID-19, they, and virtually all providers, are experiencing more shortages because current staff are either ill or fear catching the virus. Providers are exhausting all outside resources such as staffing agencies, but they are competing with many other health care companies or providers, and there simply aren't enough people available or willing to fill the positions. Recognizing the severity of the dangers staff endure, and to show their appreciation, providers have even offered incentive pay to their staff. The work is hard, and the additional concern of becoming ill exacerbates an already serious problem. While the state has provided some support in finding staff for hospitals and nursing homes, adult care and assisted living providers have been left to fend for themselves.

Governor Cuomo, we understand your comments to the effect that as regulated providers, this is what we signed up for and so we must deal with it. Our providers have done that, working day and night. But, the simple truth is—at no fault of their own, assisted living and adult care staff have been assigned a herculean task without the resources they need to do it in the best way that they can. Nevertheless, they come to work every day and act bravely and compassionately, providing a level of service above and beyond what the assisted living setting was originally designed or intended to do.

Our providers and their staff understand this is a pandemic and we're all in this together. That is why they continue to show up to work to help the residents, and care for those who are sick. Despite not being prioritized, and subjected to substantial additional regulatory and reporting requirements, we are ready to work together and be part of the solution. But perhaps the first steps are to help put us in a position to succeed with supplies of PPE, funding to employ more staff, testing available to residents and staff to help contain the virus as best we can, and some temporary regulatory relief so that our staff can dedicate their time caring for residents rather than completing voluminous paperwork and other requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Newcomb". The signature is fluid and cursive, with a large initial "L" and "N".

Lisa Newcomb
Executive Director
Empire State Association of Assisted Living