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Assemblyman Michael Cusick  
1911 Richmond Avenue  
Staten Island, NY 10314

Dear Assemblyman Michael Cusick,

We are writing to you today to urge you to pass Assembly Bill A7807 which seeks to establish the LGBTQ+ long-term care (LTC) facility residents' bill of rights so that these residents receive equal and culturally appropriate treatment and enjoy the same care and respect as their heterosexual counterparts. This bill would allow LGBTQ+ elders to express themselves freely without the fear of being discriminated against in the facilities they reside. In 2020, 14 million people over the age 65 required some amount of LTC in the United States. This number is expected to rise to 24 million by 2030<sup>1</sup> or even higher since there are many older people who have long Covid. A good number of LTC residents are LGBTQ+ elders who will, without this bill, continue to face discrimination in these facilities which include, but are not limited to, receiving improper medical care and treatments that they need and to remain being their true authentic selves. Data show that close to one third of LGBTQ+ LTC residents have been discriminated against due to their gender and/or sexual orientation.<sup>2</sup> In an effort to "avoid" this overt discrimination, many LGBTQ+ elders in these facilities feel that they have no choice but to "return to the closet;" hiding once more their sexual and/or gender identities.<sup>3</sup> This should not be the case, as the 1987 Nursing Home Reform Act (Act)<sup>4</sup> ought to protect *all* seniors from physical, emotional, and social abuse and neglect. This Act created specific requirements that staff have to meet in order to provide the best care possible to the elderly. In addition, the Act also enshrines the rights the elderly have as it relates to privacy, being treated with dignity, exercise self-determination, freedom from abuse, mistreatment, neglect, access to proper medical care, etc. Yet these rights are not afforded to all LGBTQ+ elders, as they frequently do not receive the appropriate physical, emotional treatment and care that is promised and needed. This means, LGBTQ+ elderly who sense that they are not supported are hesitant to seek proper

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<sup>1</sup> Hinrichs M. L., & T. Vacha-Haase (2010) Staff Perceptions of Same-Gender Sexual Contacts in Long-Term Care Facilities. *Journal of Homosexuality*, 57(6), 776-789.

<sup>2</sup> Schwinn S. V. & S.A. Dinkel (2015). Changing the culture of Long-Term Care: Combating Heterosexism. *Online Journal of Issues in Nursing*. 20(2) <https://doi.org/10.3912/OJIN.Vol20No02PPT03>

<sup>3</sup> Löf, J., & A. Olaison. (2018) 'I don't want to go back into the closet just because I need care': Recognition of older LGBTQ adults in relation to future care needs. *European Journal of Social Work*, 23(2), 253-264.; Furlotte, C., Gladstone, J. W., Cosby, R. F., & Fitzgerald, K. A. (2016). "Could we hold hands?" Older lesbian and gay couples' perceptions of long-term care homes and home care. *Canadian Journal on Aging*, 35(4), 432-446.

<sup>4</sup> The Nursing Home Abuse Center Team. (2020, March 30). Nursing Home Reform Act of 1987. The Nursing Home Abuse Center (NHAC). <https://www.nursinghomeabusecenter.com/resources/nursing-home-reform-act/>

medical care for chronic illnesses and mental health issues.<sup>5</sup> This can be attributed to the fact that about 50% of LGBTQ+ elderly reported that their healthcare needs were either half-met or not met at all.<sup>6</sup>

Another area in which LGBTQ+ LTC residents experience unequal treatment is housing. It is not unheard of that some same sex couples have been turned away by LTC and nursing facilities to, in the words of a social worker, “avoid the problem of homosexuality and lesbianism all together.”<sup>7</sup> This is not avoidance but blatant discrimination. In addition to discrimination, 14% of LGBTQ+ LTC residents reported experiences of verbal and/or physical harassment from fellow resident and staff.<sup>8</sup> Transgender elderly LTC residents are especially vulnerable. In 2016, 14% of transgender people described that they were denied equal treatment or service, experiences verbal harassment and physical attacks from staff in LTC facilities for being transgender.<sup>9</sup> Such abuse can potentially cause mental and/or physical decline. For example, one third of the LGBTQ+ LTC residents have been diagnosed with depression which is often intensified due to lack of respect and care that their heterosexual counterparts are afforded.<sup>10</sup> In some instances, this leads LGBTQ+ LTC residents to contemplate or even pursue suicide, as they feel they have no other way to deal with discrimination, grief, loss of a same sex relationship, and/or the denial of their sexual and/or gender identity. Given these various forms of discrimination and abuse, some have argued that this is “a form of elder mistreatment.”<sup>11</sup>

Assembly Bill A7807 would be a great start to end discrimination of LGBTQ+ elderly, as it would also require staff members in LTC facilities who work directly with LGBTQ+ residents to receive regular training on cultural competency that focuses on issues pertaining to LGBTQ+ residents. Such trainings would reduce discrimination in these facilities and thus LGBTQ+ elders would feel safe, be assured to receive adequate (medical) care, and/or to be referred to by correct pronouns.

It is important to recognize that the transition from independent life to living in an LTC is difficult for anyone because elderly people often can become isolated from their communities and/or families. Forcing LGBTQ+ LTC residents to change or hide their true selves and identities only further aggravates this difficult transition. LGBTQ+ elders in LTC facilities want and need to be cared for with respect; they desire to be treated not just equally, but specifically to their needs as LGBTQ+ individuals and having staff who understands and empathizes with the struggles and celebrations of living a long life as an LGBTQ+ person.<sup>12</sup> The proposed bill would

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<sup>5</sup> Jihanian, L. J. (2013) Specifying Long-Term Care Provider Responsiveness to LGBT Older Adults, *Journal of Gay & Lesbian Social Services*, (2502), 210-231.

<sup>6</sup> Smith A. L. et al. (2010) Assessing the Needs of Older Gay, Lesbian, Biesexual, and Transgender People: A Service-Learning and Agency Partnership Approach. *Journal of Gerontological Social Work*. 53(5), 387-401,

<sup>7</sup> Hinrichs M. L., & T. Vacha-Haase (2010) Staff Perceptions of Same-Gender Sexual Contacts in Long-Term Care Facilities. *Journal of Homosexuality*, 57(6), 776-789.

<sup>8</sup> Hinrichs M. L., & T. Vacha-Haase (2010) Staff Perceptions of Same-Gender Sexual Contacts in Long-Term Care Facilities. *Journal of Homosexuality*, 57(6), 776-789.

<sup>9</sup> Putney M. J., et al (2018) “Fear Runs Deep:” The Anticipated Needs of LGBT Older Adults in Long-Term Care. *Journal of Gerontological Social Work*, 61(8), 887-907; Hinrichs M. L., & T. Vacha-Haase (2010) Staff Perceptions of Same-Gender Sexual Contacts in Long-Term Care Facilities. *Journal of Homosexuality*, 57(6), 776-789.

<sup>10</sup> Jihanian, L. J. (2013) Specifying Long-Term Care Provider Responsiveness to LGBT Older Adults, *Journal of Gay & Lesbian Social Services*, (2502), 210-231.

<sup>11</sup> Brotman, S., B. Ryan, & R. Cormier (2003). The Health and Social Service needs of Gay and Lesbian Elders and their Families in Canada. *The Gerontologist*. 43(2), 192-202.

<sup>12</sup> Löf, J., & A. Olaison (2018). ‘I don’t want to go back into the closet just because I need care’: Recognition of older LGBTQ adults in relation to future care needs. *European Journal of Social Work*, 23(2), 253–264.

<sup>10</sup> Smith, L. A. et al. (2010) Assessing the Needs of Older Gay, Lesbian, Bisexual, and Transgender People: A Service-Learning and Agency Partnership Approach, *Journal of Gerontological Social Work*, (53)5, 387-401.

improve the quality of life for LGBTQ+ elderly in many different ways, most importantly by ensuring that they have agency over their bodies and identities as they age. To ensure just that, Assembly Bill A7807 would require LTC facilities to employ procedures for recordkeeping that not only include information on residents' medical history and family but also their gender identity, their preferred name, their pronoun, etc.

We hope that these details on the continued discrimination of LGBTQ+ LTC residents propel you to support Assembly Bill A7807. Given your past record (e.g. votes for A8375 and A8421) and commitment to ensure that New Yorkers are treated fairly regardless of their gender identities and sexual orientation, we remain optimistic that you will be part of ending the discrimination that LGBTQ+ residents in LTC facilities continue to experience.

Thank you for your time and consideration,

Jacqueline Guzman & Ava De La Cruz

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<sup>11</sup> Jihanian, L. J. (2013). Specifying Long-Term Care Provider Responsiveness to LGBT Older Adults, *Journal of Gay & Lesbian Social Services*, (2502, 210-231.