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Connecticut Association of Not-for-profit Providers For the Aging

Testimony to the Public Health Committee

Regarding

House Bill 5475, An Act Concerning Dental Care for Nursing Home Residents

Senate Bill 401, An Act Concerning an Initiative to Increase and Improve the State's Health Care Workforce

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Senate Bill 428, An Act Concerning Revisions to the Public Health Related Statutes

Presented by Mag Morelli, CANPFA President

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Good morning Senator Harris, Representative Ritter, and members of the Public Health Committee. My name is Mag Morelli and I am the President of the Connecticut Association of Not-for-profit Providers for the Aging, (CANPFA), an association of not-for-profit providers of aging services. I am pleased to submit testimony today on three bills and to present on *Senate Bill 428, An Act Concerning Revisions to the Public Health Related Statutes.*

House Bill 5475, An Act Concerning Dental Care for Nursing Home Residents

CANPFA would like to state our general opinion that any time the legislature is contemplating additional regulations or mandates for skilled nursing facilities, that they should take into serious consideration any additional costs to the facilities related to those regulations. That said, in reviewing House Bill 5475 it is difficult for us to assess or comment without knowledge of the perceived need or what will be considered "adequate supervision." Currently, the nursing home members of CANPFA either provide dental services within the nursing facility or provide appropriate assistance with outside dental appointments. If there is a specific issue with one particular facility or resident, it may be more appropriate to deal with that particular circumstance rather than adding additional regulation.

Senate Bill 401, An Act Concerning an Initiative to Increase and Improve the State's Health Care Workforce

We support this initiative to develop an academic initiative that addresses the critical shortage of health care professionals in the state. Creating a pool of

talented people to care for our elders is one the greatest challenges our society faces. The number of individuals needing care and those providing it are currently at odds. The population of older adults requiring long-term care is rapidly accelerating, yet the pool of individuals aged 25-54 who have traditionally provided long-term care is shrinking.

High-quality staffing is also the best proxy for quality we have in our work as aging services providers. CANPFA is committed to helping our members take this challenge head on and improve and advocate for a committed and well-trained long-term workforce.

Senate Bill 428, An Act Concerning Revisions to the Public Health Related Statutes

CANPFA would like to comment on two sections of Senate Bill 428 which is proposing revisions to public health related statutes. We would also like to propose our own list of suggested revisions to the public health code as it relates to skilled nursing facilities. We submit these revisions as a means of potential saving nursing home costs without compromising resident care.

Section 9 - Regarding proposed changes to the oversight of nursing facility management services, there are two aspects of this section that we find problematic:

In lines 382 – 394 the Department of Public Health is attempting to expand their authority to initiate disciplinary action against a management company because it is not in good standing in *another* state. We would argue that this provision potentially raises constitutional issues because it creates an extremely vague and potentially arbitrary standard. What does it mean to be in "good standing" in another state? Good standing as to what? Management services in a nursing home? Delivery of some other licensed service? Filing tax returns or paperwork with the secretary of state's office? It is our understanding that Connecticut refuses to ever issue any opinion as to whether a given provider is in "good standing" in this state, so why is it assumed that it will be clear in other jurisdictions what it means to be (or not to be) in "good standing?"

In this same section of the bill, DPH is proposing that they be permitted to issue civil monetary penalties against a management company for Class A and Class B violations that occur in the nursing home, but the nursing home is already subject to civil monetary penalties. This means that two fines could be assessed for the same violation. In many instances, the management company is a related party to the licensed nursing home and so the penalty is really being levied twice against the same entity. We would object to this proposal.

Section 17 - Regarding revisions to licensure by endorsement statute, we have additional language to propose:

This section proposes revisions to the statutes governing nursing home administrator licensure and specifically to licensure by endorsement. We would like to propose an *additional* change to this statute. We have had several recent recruitments of excellent out of state administrators to CANPFA member nursing facilities. These administrators had years of experience and were highly recommended with excellent work and academic backgrounds. Due to the rigid nature of our licensure by endorsement statute, all of these administrators were required to take Connecticut's basic eight month nursing home administrator licensure course. This course is very rudimentary for an experience administrator and therefore unnecessary. It is expensive and causes an eight month delay in the licensure process. Therefore we would request a change in the statute so that any person, who holds a license as a nursing home administrator in a surrounding state and has been practicing within one year of submitting an application for endorsement licensure, be deemed to have met the licensure requirements of the State of Connecticut. I have included suggested language in my testimony.

Suggested language:

Amend section 19a-513 of the Connecticut General Statutes as follows:

> In order to be eligible for licensure by endorsement pursuant to sections 19a-511 to 19a-520, inclusive, a person shall submit an application for endorsement licensure on a form provided by the department, together with a fee of one hundred dollars, and meet the following requirements: (1) Have completed preparation in another jurisdiction equal to that required in this state; (2) hold a license as a nursing home administrator by examination in another state; and (3) be a currently practicing competent practitioner in a state whose licensure requirements are substantially similar to or higher than those of this state. <u>Any person who (1) holds a license as a nursing home administrator in the state of Maine, Massachusetts, New Hampshire, New York, Rhode Island or Vermont and (2) has been a practicing competent practitioner in such state within one (1) year of submitting an application for endorsement licensure, shall be deemed to have met the above requirements.</u> No license shall be issued under this section to any applicant against whom disciplinary action is pending or who is the subject of an unresolved complaint.

Public Health Code - The following is a suggested list of public health code regulations that could be modified to save nursing home costs without compromising resident care:

Public Health Code, Chapter VI, Section 19-13-D8t Chronic and convalescent nursing homes and rest homes with nursing supervision (pages 65-97)

- **Licensure procedure** (p.66): Paper licensure renewals are extremely time consuming and cumbersome. *Suggestion:* Enable it to be done electronically.

- **Waivers** (p. 67): Any deviations from the standards in the code require a waiver from the Department of Public Health (DPH) and currently DPH asks for an *annual* renewal of waivers. This annual renewal process is cumbersome and time consuming and we question the value. *Suggestion:* DPH should institute a more streamlined process for initial approval of general waivers, especially for culture change reasons, and once approved such waivers should be permanent. (CMS guidance supports culture change efforts and is suggesting that nursing homes create an environment, "as close to that of the environment of a private home as possible.")

- **Temperature** (p. 68): The Public Health Code currently requires resident rooms and all other areas used by residents be maintained at a 75 degree minimum and all other areas a minimum of 70. *Suggestion:* That DPH utilize the authority given to them through (PA 03-272, Sec. 19a-522a) to reduce the temperature requirements to meet current federal standards:

    - The federal regulations at 42 C.F.R. 483.15(h)(6) provide that nursing home facilities initially certified after October 1, 1990 must maintain a temperature range of 71 to 81 degrees Fahrenheit. The federal regulations do not provide explicit temperature standards for facilities certified on or before October 1, 1990, but the State Operations Manual provides that such facilities "still must maintain safe and comfortable temperature levels."

- **Reportable Events** (p. 70): Specific to Class E: "an event that has caused, or resulted in minor injury, distress or discomfort to a patient." This is the most minor of reportable events; a Class E reportable event report is not sent to DPH. However, nursing facilities are required to maintain reportable event forms on file for 3 years. We believe that there should be a different standard of record retention for these minor reports. *Suggestion:* Change the record retention requirement to 15 months or a survey cycle – whichever is less. *In addition*: The mandated written report for this level of reportable event should not be required to include (B) level of care and bed capacity, or date of admission, current diagnosis, physical and mental status prior to or after the event. The suggested changes relate only to what we consider to be onerous documentation requirements for this level of event.

- **Medical Staff** (p. 73): Members of the medical staff are required to meet every 90 days. *Suggestion:* Change requirement to every 120 days instead of every 90 days.

- **Director of Nurses** (p. 74): Currently a facility of 120 beds or more needs both a Director of Nurses and an Assistant Director of Nurses. *Suggestion:* Change the requirement for an Assistant Director of Nurses (ADON) from needing one for a facility of 120 beds or more to needing one in any facility of 150 beds or more. This could potentially save facilities the cost of one Registered Nursing FTE filling in that function where he/she is not counted as direct care staff. The duties of the ADON are often more administrative in nature (such as staff scheduling) and could be done by other staff such as human resources staff.

- **Pool nurse credentialing** (p. 77): *Suggestion:* Make pool nurse and nurse aide credential verification the responsibility of the agency, not the nursing home.

- **Physicians Visits** (p. 81): The current mandate requires that new residents be examined at least once every 30 days for the first 90 days. *After 90 days* they still have to be examined every 30 days unless the physician orders less frequent exams, but still no less than every 60. *Suggestion:* After the first 90 days, change the physician examination requirement to at least *every 60 days*. This is the current federal standard.

- **Medical Records** (p. 83): Currently require entries in patient's record to be "in ink or typewritten." *Suggestion:* We need to allow for electronic medical records. In addition, the Code currently requires 10 years of record retention and we would suggest that it be changed to 7 years to save storage costs.

- **Discharge planning** (p. 83): *Suggestion:* If resident has a written medical order for discharge, then a physician signature should not be required again at the actual time of discharge. This often delays discharge.

- **Dietary Service** (p. 84): The Code sets a maximum time span of 14 hours between the evening meal and breakfast, but nursing homes instituting culture change have found this to be a strain on their kitchens as individual residents are choosing to eat dinner and breakfast and varying times. *Suggestion:* Change the requirement to the federal standard which is a 14 hour maximum, but includes the following exception: "unless a substantial bedtime nourishment is provided." A change to the federal

standard could bring significant savings because now a skilled nursing facility may need to keep the kitchen open extra hour(s) to accommodate both resident choice and the 14 hour maximum. To be able to reduce your hours of kitchen operation by even one hour per day would save one hour of kitchen labor per employee on duty at that time, seven days a week. *For example*, if you have 5 employees who work that last kitchen shift, an hour per day saves 35 hours per week, or almost one FTE annually. At an average salary, with fringe benefits, of $15 an hour, that is more than $27,000 a year of savings without compromising care in any way.

In addition, we would suggest a change in the Code from "provide bedtime nourishments for *each* patient" to "offer" bedtime nourishment – to avoid waste that currently occurs when a bedtime nourishment is prepared for each individual resident, but by choice is not consumed by many.

- **Therapeutic recreation** (p. 85): *Suggestion:* Expand the opportunity for workforce development by allowing a high school graduate to serve an on-site apprenticeship of 12 months.

- **Social Work** (p. 87): The nursing home social worker is currently responsible for two in-servicing functions that we believe do not need to be the responsibility of the social worker and could be performed by other personnel. These are listed in the Code as social work requirements (8) and (9) and they are specifically the in-servicing of staff on residents' rights and the in-servicing of staff on the needs of the patient population. To take this specific in-servicing responsibility away from the social worker would free up the social worker's time to perform more relevant social work responsibilities. These in-service requirements *would remain the responsibilities of the facility*, but could be done by someone other than the social worker.

- **Room requirements** (p. 91): Again, we need a more streamlined waiver system especially for culture change. There should be the ability to receive permanent facility or unit wide waivers for culture change redesign in addition to allowing for deviation based on individual resident choice or needs of segments of the population. *Suggestion:* Maybe make the requirement "The following equipment shall be [provided for] *offered and available at no additional cost*" so that the patient can choose to decline it. In addition;

    - DPH needs to be responsive and lenient toward waivers – including new construction.

- Consider legislative amendment to state statute Sec. 19a-521b which requires a three foot clearance at the sides and foot of the bed – perhaps limiting mandatory clearance to one side.

- **Details of construction** (p. 95): *Suggestion:* DPH needs to be responsive and lenient toward waivers – including new construction.

- **Required equipment** (p. 97): *Suggestion:* Require one stretcher per floor rather than per nursing unit.