



Testimony to the Human Services Committee

Presented by Mag Morelli, President of LeadingAge Connecticut

February 20, 2014

Regarding

**HB 5052, An Act Implementing the Governor's Budget Recommendations for
Human Services Programs**

HB 5051, An Act Improving Transparency of Nursing Home Operations

HB 5136, An Act Concerning Nursing Home Transparency

SB 104, An Act Providing Financial Relief to Nursing Homes for Uncompensated Care

Good afternoon Senator Slossberg, Representative Abercrombie, and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a statewide association of non-profit and mission-driven providers of high quality aging services across the full continuum. I am here today to speak to four separate bills that would directly impact our non-profit nursing home and residential care home members.

**HB 5052, An Act Implementing the Governor's Budget Recommendations for
Human Services Programs**

LeadingAge Connecticut opposes this bill that would effectively nullify the current cost-based rate setting system for both nursing homes and residential care homes.

Nursing home rates sustained a \$5 million cut in the first year of this biennial budget. While the Governor's midterm budget recommendations do not propose any further cuts, this implementer bill would make substantial changes to the statutes containing the nursing home cost based rate system. The proposed changes would remove any future rate increase based on a nursing home's cost-based rate calculation and allow only for a percentage increase as determined by legislative action. The same changes are proposed for the residential care home rate statutes.

In reality, the proposed language codifies what has been the recent year by year practice of the state, but these proposed changes would permanently establish that Connecticut will no longer recognize the current cost-based rate setting system that incentivizes investment in resident care. While we understand the state is moving toward a different rate setting system for our nursing homes, it has not yet done so, and we do not know what the new system will look like or when it will happen. To the best of our knowledge, the state has no plan to change the residential care home rate system, and therefore these changes would potentially freeze the residential care home rates as they stand. We are very uncomfortable with the proposed changes to the current rate setting statutes and oppose their passage. Now is not the time to neutralize our cost-based rate system and place disincentives to investment in resident care.

The state is counting on nursing homes to be the change agents of rebalancing. We want our nursing homes to realign their structures, redesign their environments and in many ways intensify the work they are currently performing as those we care for become frailer, older, and in need of more care, not less. While we may need fewer nursing home beds moving forward, the nursing homes we do need will need to be financially healthy in order to provide the high quality level of skilled care that will be demanded of them.

Medicaid is the single most important public source of funding for nursing home care, but the fact is that current Medicaid rates do not meet the costs of providing this care. In the average nursing home, 71% of the residents are being funded by Medicaid and the average daily Medicaid rate is significantly lower than the statutorily calculated allowable rate - which itself is inherently lower than the actual costs incurred to care for a nursing home resident.

The only nursing home rate increase since 2008 was the direct result of an increase in the nursing home user fee (provider tax) in 2011. (The nursing home user fee was originally implemented in 2005.) And as we stated earlier, last year the funding was cut and the average nursing homes sustained a rate cut of .273%.

Medicaid Nursing Facility Rate History

<u>Rate Period</u>	<u>Increase/Decrease</u>	<u>Cost Report Year</u>
1/1/05-6/30/05	1.0%	2000
7/1/05-6/30/06	14.0% (4.0% net Rebase w/Tax)	2003
7/1/06-6/30/07	3.0%	2003
7/1/07-6/30/08	2.9%	2003
7/1/08-6/30/09	0%	2003
7/1/09-6/30/10	0%	2007
7/1/10-6/30/11	0%	2007
7/1/11-6/30/12	3.7% (1.25% net w/Tax Increase)	2007
7/1/12-6/30/13	0.33% (.17% net w/Tax Increase)	2007
7/1/13-6/30/14	-0.273 (Decrease)	2011

Today's nursing homes are caring for an increasingly frail resident population while embracing culture change and person-centered care in environments that more closely resemble a home than an institution. We are on the right road. We should not turn back. The non-profit aging service providers support determining the right number of nursing home beds and enhancing home and community services options, but we must invest in the nursing homes that will still be desperately needed by those who cannot be cared for at home.

**HB 5051, An Act Improving Transparency of Nursing Home Operations
HB 5136, An Act Concerning Nursing Home Transparency**

We do not support this proposal and object to its passage. We question why this additional information is needed by the Department of Social Services and what it will be used for once submitted. This information appears to be of no value to the rate setting system and would have no effect on the rate calculation.

The Department of Social Services currently reimburses nursing homes through the Medicaid system using cost-based per diem rates. These rates are specific to each skilled nursing facility and are calculated by the state based on the costs of caring for residents. These documented costs are submitted annually to the state by every nursing home in an extensive 37 page cost report. The annual cost report already requires on page 4 that nursing homes submit information regarding payments made to related parties, including information on whether the related party is making a profit on the goods or services purchased by the nursing home.

Similarly, nursing homes already must submit comprehensive salary and wage information on page 10 and benefits information on page 15 of the annual cost report. This information is reported in the aggregate by position, not by each individual staff member, as the proposed language would require. In addition, the proposed language of the bills would leave open the door for mandated submission of even more detailed information as it proposes to required "detailed information...including, *but not limited to*" the specific data listed.

Since nursing homes already provide the information called for in the bills, we see no reason for the proposed legislation. Again, we question why this additional information is needed by the Department of Social Services and what it will be used for once submitted as this additional information appears to be of no value to the rate setting system and would have no effect on the rate calculation. In fact a companion piece of legislation, HB 5052, is proposing to nullify the rate setting system.

We ask whether the benefits of this additional information are worth the time, cost and risks of submitting it. If it has no value to the state's rate setting system, what is the intended use and is it worth the risks?

- Our members are concerned because the detailed information required could be made public. It is not just a matter of submitting the additional information to the Department of Social Services. This information will be available through the Freedom of Information Act, and therefore it is being made public.
- Nursing home providers, like other business entities, are prohibited from engaging in the exchange of wage and salary information by federal anti-trust law. This new mandate would now open the opportunity for competitors to annually review each other's detailed wage and salary data.
- Nursing home employees' personal wage and salary details could be made public. These are not public employees and they may not want to have their personal information made public. Although the bills would require that reports be made by position, not name, in some cases, only one individual holds that position and so his or her salary and benefits information will become public.

Finally, Section 2 of HB 5051 would provide immunity to the state against any legal action brought by parties aggrieved by any action or decision related to the nursing home rate setting statute 17b-340. We object to the proposed removal of this legal right and potential legal option for nursing home providers, employees, and residents.

The following is a link to information regarding the currently required cost reports: 2013 Annual Report or (http://www.mslc.com/Connecticut/CT_Services_CR_AR.aspx). *It should be noted that the actual rates paid to nursing homes are significantly lower than the rates calculated based on reported costs.*

Senate Bill 104, An Act Providing Financial Relief to Nursing Homes for Uncompensated Care

LeadingAge Connecticut strongly supports this bill to provide immediate relief to nursing homes that are experiencing extended periods of non-payment from the state due to excessive delays in the Medicaid eligibility process. The bill would require advance payments to nursing homes caring for residents whose Medicaid applications have been pending for more than 90 days. It would also postpone payment of the nursing home user fee (provider tax) on a resident bed until such time as the nursing home is receiving a cash payment for the services provided for that resident.

Currently, the Medicaid eligibility system is not able to qualify long term care applications in a timely manner. As a consequence, consumers are unable to access long term services in the community, and nursing home providers are incurring millions of dollars in unpaid bills owed by the state. We know that the Department of Social Services (DSS) is working on these issues. In fact, we have been working closely with DSS and hope that the modernization of the eligibility system will succeed and nullify the need for this advanced payment program in the future. However, the new system is not currently able to process the long term care applications in a timely manner. We simply cannot wait.

Nursing homes are providing months and sometimes years of uncompensated care during prolonged periods of pending eligibility. Our member nursing homes are reporting Medicaid payments owed by the state that range in amounts from tens of thousands of dollars up to and over a million dollars per nursing home. At the same time, these nursing home are required to pay the state the nursing home user fee (provider tax) of \$21.02 per bed per day for residents whose Medicaid applications are pending. Nursing homes cannot continue to function with this restriction on cash flow. We need help now - help to get us through this transition period as we wait for the eligibility system to improve.

We therefore are requesting a program of advanced payments and a temporary reprieve from the user fee tax payments that will provide the crucial financial relief needed during extended periods of pending Medicaid eligibility. The advanced payments should have no fiscal impact on the state as they would be an advance of Medicaid payments that are already owed to the facilities. We also believe that the advanced payment program could be removed once the modernization of the eligibility system is successfully implemented and the Department is able to qualify long term care applicants in a timely manner. We are also willing to work on the language of this bill to minimize the risk to the state. We strongly support a resolution to this situation and encourage the Committee to support this bill.

Thank you and I would be glad to answer any questions.

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LeadingAge Connecticut is a membership organization representing over 130 mission-driven and not-for-profit provider organizations serving older adults across the continuum of care including nursing homes, residential care homes, housing for the elderly, continuing care retirement communities, adult day centers, home care and assisted living agencies. By continuing a tradition of mission-driven, consumer-centered management and competent, hands-on care, not-for-profits set the standard in the continuum of housing, care and services for the most vulnerable aging adults.