



Testimony of AARP Connecticut

In Support of **S.B. 1057, An Act Concerning Nursing Homes**

Comments Regarding **S.B. 1054, An Act Establishing a State Home Health and Hospice Ombudsman** and **H.B. 6634, An Act Concerning Essential Support Persons and a State-Wide Visitation Policy for Residents of Long-Term Care Facilities**

Human Services Committee, Thursday, March 25, 2021

Senator Moore, Representative Abercrombie, Ranking Members, and Members of the Human Services Committee:

AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. We have a membership of 38 million nationwide and nearly 600,000 in Connecticut. Thank you for the opportunity to express our support for S.B. 1057, An Act Concerning Nursing Homes and to offer comments regarding S.B. 1054, An Act Establishing a State Home Health and Hospice Ombudsman and H.B. 6634, An Act Concerning Essential Support Persons and a State-Wide Visitation Policy for Residents of Long-Term Care Facilities.

### **S.B. 1057, An Act Concerning Nursing Homes – Support with a Proposed Amendment**

The COVID-19 pandemic has been an unprecedented public health crisis, and despite the best efforts of government officials and healthcare workers, nearly 14,000 Connecticut nursing home residents have contracted the virus in the past year, and more than 3,800 residents have died. These devastating losses have exposed serious deficiencies in the systems that we rely on to serve older adults and people with disabilities.

Staffing levels are critical to quality care in nursing homes. Low staffing levels mean that residents cannot get out of bed, use the bathroom, or eat in a timely manner; staff risk physical injury and cannot give residents the time and attention they deserve; visits with loved ones may be limited or cancelled; and it is more difficult for facilities to contain the spread of COVID-19 and other infectious diseases. In *A Study of the COVID-19 Outbreak and Response in Connecticut Long-Term Care Facilities*, which Mathematica issued on behalf of Governor Lamont in September of 2020, Mathematica determined that “staffing rating [referring to the Centers for Medicare and Medicaid Services 5-star quality rating system] was highly predictive of the ability to limit the spread of COVID-19 in nursing homes.”<sup>i</sup>

Even prior to COVID-19, researchers saw the connection between staffing levels and other factors that impact care. “For example, low staffing levels are associated with high turnover rates and vice versa. It is likely that adequate staffing levels must be addressed before improvements can be made in other factors such as turnover, management, and competency.”<sup>ii</sup>

Connecticut’s Public Health Code mandates only 1.9 hours of nursing staff care (from nurses and nurse aides) per resident per day,<sup>iii</sup> far below the 4.1 hours of care per resident per day that has been identified by the Centers for Medicare and Medicaid Services (CMS) as the minimum necessary to ensure adequate care.<sup>iv</sup> Legislation to improve staffing levels has been raised on a regular basis in Connecticut going back at least to 2014.<sup>v</sup> Connecticut nursing homes maintain staffing levels that are more or less aligned with national and regional averages, yet at 3.72

hours per resident per day (pre-COVID-19), these average staffing levels still fall below what is recommended.<sup>vi</sup>

The Mathematica report was not alone in finding that “nursing homes with high staffing ratings had significantly fewer cases and deaths per licensed bed.”<sup>vii</sup> A recent article in the Journal of the American Geriatric Society looked at COVID-19 infections in Connecticut nursing homes and found that “every 20 minutes (per resident day) increase in registered nurse staffing was associated with a 22% reduction in confirmed cases.”<sup>viii</sup> Another recent article explored the connection between nursing home staffing levels and COVID-19 outbreak severity and discovered that “implementing efforts to stem transmission, such as regular testing and cohorting of both residents and staff, is difficult without sufficient staffing levels...(and) having enough nurse aides to implement virus containment will be crucial if deaths are to be averted.”<sup>ix</sup>

AARP Connecticut supports Sections 1(a) and (b) of S.B. 1057, which would establish a minimum staffing level for nursing homes, although we recommend the following amendment to Section 1(b) to specify that the recommended staffing levels are per resident per day:

(b) On or before January 1, 2022, the Department of Public Health shall establish minimum staffing level requirements for nursing homes of at least four and one-tenth hours of direct care per resident *per day*, including seventy-five hundredths hours of care by a registered nurse, fifty-four hundredths hours of care by a licensed practical nurse and two and eighty-one hundredths hours of care by a certified nurse's assistant.

We also support the provisions of Sections 1(c) and (d). Section 1(d) would require the Commissioner of Social Services and the Commissioner of Public Health to “establish a minimum percentage of Medicaid reimbursement to nursing homes for the provision of direct care to nursing home residents.” AARP CT believes that this proposal would create greater accountability for how state funding is used and would ultimately improve care for residents.

Connecticut has spent more than \$1.5 billion per year on institutional care, such as nursing homes, in recent years.<sup>x</sup> Medicaid accounts for roughly 70 percent of nursing home spending in the state,<sup>xi</sup> and as the primary payer of nursing home care, the state has a great deal of control over incentives and payments. Connecticut should hold nursing homes accountable for the use of public funds by ensuring those funds are used to care directly for residents. Legislation that passed and signed into law in New Jersey in late 2020 requires that at least 90 percent of a facility’s revenue be spent on direct resident care.<sup>xii</sup> This legislation could serve as a model for a direct care payment ratio in Connecticut.

### **S.B. 1054, An Act Establishing a State Home Health and Hospice Ombudsman – Comments**

In recent years, Connecticut has made significant progress in providing long-term care recipients with more opportunities to receive services in the setting of their choosing, and many individuals have chosen to receive home and community-based services. AARP Connecticut applauds State and Federal efforts to help more individuals remain or return to their homes to receive long-term care, and we believe that oversight efforts should reflect this ongoing focus on home and community-based services.

While we believe that S.B. 1054 is a well-intentioned bill and speaks to the need for recipients of home and community-based services to have access to an ombudsman, we do not believe that housing the ombudsman within the Department of Public Health would create the autonomy

necessary for a robust program. Because the Department of Public Health licenses and oversees home health and hospice agencies, conflicts of interest may arise if the ombudsman were housed in the same agency. We would refer the Committee to the testimony of Mairead Painter, the state's Long-Term Care Ombudsman, for more details and a potential alternative proposal.

### **H.B. 6634, An Act Concerning Essential Support Persons and a State-Wide Visitation Policy for Residents of Long-Term Care Facilities – Comments**

Even before COVID-19, public health professionals warned of the adverse impacts of loneliness and social isolation, which include increased risks for dementia, heart disease and stroke, emergency department visits, and premature death that “may rival those of smoking, obesity, and physical inactivity.”<sup>xiii</sup> Connecticut has been proactive in requiring virtual visitation<sup>xiv</sup> and reiterating federal visitation guidance from the Centers for Medicare and Medicaid Services (CMS), but these actions have not been enough to keep all residents connected to their loved ones and ensure that their social and emotional needs are met.

We would like to direct your attention to any testimony submitted today by nursing home residents and their loved ones. They have experienced incredible heartbreak and demonstrated remarkable resilience throughout the past year, and we want to acknowledge and highlight their experiences.

While we support the intent of H.B. 6634, we are concerned that it will not do enough or be enacted quickly enough to address the ongoing issues we are currently seeing with isolation in nursing homes. Policies are only as good as our willingness to audit and enforce them, and we know from nursing home residents and their loved ones that existing federal and state regulations related to visitation have not been uniformly interpreted or applied.

For example: on March 10, 2021, CMS released new nursing home visitation guidance stating that “facilities should allow indoor visitation at all times and for all residents (regardless of vaccination status), except for a few circumstances when visitation should be limited due to a high risk of COVID-19 transmission (note: compassionate care visits should be permitted at all times).”<sup>xv</sup> In the following days, family members began receiving communication from their loved one's facility regarding implementation of the new guidance. According to one message:

“Great news! We received new guidance regarding visitation. Going forward, we will cease the appointment system, and make visits more feasible...Visits no longer will have a time limit or apt needed – but please recognize that when you come to visit you may have to wait for the room to be available.”

But according to guidance sent to families from another facility:

- “Available visiting times are 10:00am, 10:45am, 11:30am, 1:30pm, 2:15pm, and 3:00pm, Monday through Friday. Saturday hours are 10:00am, 1:00pm, and 1:45pm.
- Residents may have up to 2 visitors at a time, and two visits per week per resident. One virtual and one in-person.
- Visiting can be up to 30 minutes long.”

It does not make sense that facilities should have this level of leeway in interpreting and applying federal guidance, especially when this guidance relates to a topic as crucial as visitation. AARP Connecticut strongly supports efforts to address social isolation and allow for

visitation in accordance with CMS and CDC guidelines, but **we would recommend that there should also be a way for residents and their families to find assistance and hold facilities accountable when they believe they have been inappropriately denied visitation.**

AARP Connecticut appreciates your leadership in responding to an unprecedented crisis during the past year. We know that the devastating loss of life in nursing homes weighs heavily on many of you, and we offer our condolences to those of you who have lost friends and family members. Thank you for the opportunity to express our strong support for S.B. 1030 and to suggest possible changes.

If you have any questions about AARP Connecticut's support for S.B. 1057, our comments regarding S.B. 1054 and H.B. 6634, or the suggestions that we have outlined in our testimony, please contact Anna Doroghazi: [adoroghazi@aarp.org](mailto:adoroghazi@aarp.org) or (860) 597-2337.

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### Works Cited

- <sup>i</sup> Rowan et al. A Study of the COVID-19 Outbreak and Response in Connecticut Long-Term Care Facilities: Final Report. Princeton, NJ: Mathematica; September 30, 2020. p 20
- <sup>ii</sup> Harrington et al. The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes. *Health Services Insights* 2016;9 13-19 doi:10.4137/HIS.S38994.
- <sup>iii</sup> Conn. Agency Regs. §19-13-D8t
- <sup>iv</sup> Centers for Medicare & Medicaid Services (CMS). Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes Phase II Final Report. Baltimore, MD: CMS; 2001.
- <sup>v</sup> For example, Connecticut General Assembly House Bill 5322 from 2014.  
[https://cga.ct.gov/asp/cgabilstatus/cgabilstatus.asp?selBillType=Bill&which\\_year=2014&bill\\_num=5322](https://cga.ct.gov/asp/cgabilstatus/cgabilstatus.asp?selBillType=Bill&which_year=2014&bill_num=5322)
- <sup>vi</sup> Rowan et al. A Study of the COVID-19 Outbreak and Response in Connecticut Long-Term Care Facilities: Final Report. Princeton, NJ: Mathematica; September 30, 2020. p 63
- <sup>vii</sup> *Ibid* p 19
- <sup>viii</sup> Li, Yue et al. COVID-19 Infections and Deaths among Connecticut Nursing Home Residents: Facility Correlates. *Journal of the American Geriatrics Society* 2020; 68 1899-1906 doi:10.1111/jgs.16689
- <sup>ix</sup> Gorges, Rebecca J. and R. Tamara Konetzka. Staffing Levels and COVID-19 Cases and Outbreaks in U.S. Nursing Homes. *Journal of the American Geriatrics Society* 2020;68 2462-2466 doi:10.1111/jgs.16787
- <sup>x</sup> State of Connecticut Long-Term Care Planning Committee. "CT Rebalancing: Medicaid Long-Term Care Clients and Expenditures SFY 2020." January 1, 2020.
- <sup>xi</sup> Phaneuf, Keith. "Nursing homes want more emergency beds, state funding, to continue battling COVID-19." *CT Mirror*, 17 July 2020, available at <https://ctmirror.org/2020/07/17/ct-nursing-homes-want-more-emergency-beds-state-funding-for-covid/>
- <sup>xii</sup> New Jersey State Legislature, Assembly Bill 4482, 2020. <https://legiscan.com/NJ/text/A4482/2020>
- <sup>xiii</sup> National Academies of Sciences, Engineering, and Medicine. 2020. *Social Isolation and Loneliness in Older Adults: Opportunities for the Health Care System*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25663>[external icon](#)
- <sup>xiv</sup> Connecticut DPH. "Order." Hartford, CT: Connecticut Department of Public Health, May 9, 2020. Available at: <https://portal.ct.gov/-/media/Coronavirus/20200509-DPH-Order-modifying-therequirements-regarding-visitor-restrictions-at-nursing-homes-reside.pdf?la=en>.
- <sup>xv</sup> <https://www.cms.gov/files/document/qso-20-39-nh-revised.pdf>