



Testimony to the Judiciary Committee

Submitted by Mag Morelli, President of LeadingAge Connecticut

In Opposition to

**SB 1029, AN ACT CONCERNING CAUSES OF ACTION AGAINST LICENSED NURSING HOME FACILITIES
FOR FAILURE TO MEET STANDARDS OF CARE RELATED TO COVID-19**

March 22, 2021

LeadingAge Connecticut is a statewide membership association representing not-for-profit provider organizations serving older adults across the continuum of aging services, including not-for-profit skilled nursing facilities, residential care homes, home health care agencies, hospice agencies, adult day centers, assisted living communities, senior housing and life plan communities. As an association, we encourage the state and federal governments to value aging by investing in quality and we represent forty of the State's nursing homes.

On behalf of LeadingAge Connecticut, I respectfully submit the following testimony in strong opposition to *Senate Bill 1029, An Act Concerning Causes of Action Against Licensed Nursing Home Facilities for Failure to Meet Standards of Care Related to Covid-19*.

LeadingAge Connecticut urges this Committee not to move forward with this bill. We urge you not to single out nursing homes, as one group of health care providers that serves as a pillar in the health care delivery system and has worked tirelessly alongside other providers throughout this terrible pandemic. Additionally, we strenuously object to any attempt to retroactively remove the limited immunity protection afforded nursing homes by the Governor's executive order early in this pandemic as this immunity was provided to several entities in the health care field, was time limited, and was in line with the actions of other states across the country.

Over the past year, the aging services field has been at the center of the global Covid-19 pandemic. Covid-19 is a virus that has targeted the very people we serve. Our member organizations have been uniquely impacted by the pandemic, unlike any other health care provider sector. The toll this virus has taken on our members, their employees, and the residents and families they serve is immense, and we feel deeply saddened by the losses that have been experienced as a result of this virus. We are proud of our efforts, as LeadingAge Connecticut members faced this pandemic head on and continue to do so to protect and compassionately care for the most vulnerable older adults in our State.

Since the beginning of the public health emergency, our members have been working to provide for the health and safety of the older adults in their care. The emergency actions taken by the State have been extremely helpful to this effort. In fact, our ability to manage through the early stages of the crisis relied on these emergency actions. They permitted us to swiftly enact strategies and allowed the

nursing homes to work side-by-side with the other key providers within the health care delivery system, as well as with the state and federal regulators and scientists, to develop innovative and creative practices to save lives.

There are many on the outside who now may judge the actions taken by those on the front lines in the early days, weeks and months of the pandemic. But in reality, the nursing home professionals who went into battle each day to care for their residents were combatting a virus that little was known about and for which guidance was constantly changing. As you may remember, scientists and public health experts were still learning about the virus when it first appeared in the state and when it first entered the nursing homes. For some of our members, the virus entered their facility before a mask mandate was even in place. The early days were incredibly challenging due to the lack of scientific understanding and guidance. As more was learned, the corresponding guidance that was provided to nursing homes would continuously change and subsequently the nursing homes' actions would change to meet that guidance.

Initially, as the State prepared for the pandemic, acute care, *not* long-term care, was the priority and focus. However, as events unfolded and the risk to the nursing home population became apparent, state resources became more focused on the long-term care facilities. Nursing homes became a priority and the homes - both individually and as a sector - were able to work in collaboration with the state officials to problem solve the situation, address the outbreaks and limit the further spread. **But it took time to get there.**

The independent Mathematica report, [A Study of the COVID-19 Outbreak and Response in Connecticut Long-Term Care Facilities](#), that was commissioned by the State and published in September of 2020, agreed. "In responding to COVID-19 in LTC facilities, Connecticut faced an unprecedented challenge. Gaps in scientific knowledge about how the virus spreads, the range and severity of symptoms (especially in older adults), and underlying factors that might place an individual at greater risk undermined its early responses to the outbreak. State officials made policy decisions and issued guidance based on the available knowledge at the time from federal and state epidemiologists and public health experts. Although scientific knowledge and understanding of the virus has evolved over time, much remains unknown."

There were key points in the timeline of events when new information and guidance emerged that had a dramatic impact on outcomes. For instance, the Governor restricted visitation on March 12, the LOB closed on March 16. The first nursing home resident diagnosis was on March 18, and DPH issued their first nursing home specific guidance on March 27. **Then on April 4**, when CDC identified the *asymptomatic* carrier as being a potential source of spread, the mandate for universal source control through face mask use in the nursing homes was issued. This is a critical point in the timeline as mask wearing became crucial to efforts to control spread of the virus— **but by April 4 the virus was already in buildings.**

As you proceed down the time line, the first Covid-19 Recovery Center opened on April 16 – but only for hospital discharges, the first rapid testing site for staff opened in New Haven on April 29 – **and then on April 30, the CDC changed their return-to-work guidance from 7 days to 10 days because they discovered that the virus shed for a longer duration of time.**

On Mother's Day weekend, May 9, DPH issued their window and virtual visit guidance and most importantly, they were able to secure enough testing kits to initiate Point Prevalence Survey testing of all nursing home residents over a three-week period which enabled us to identify the asymptomatic resident carriers of the virus, initiate cohorting of the residents, and thwart the spread of the virus within the building. Remember – the staff were universally masked on April 4 to stop the spread from staff to resident – but it was not until Mid-May and into June when we were able to test and cohort to address the spread from asymptomatic residents. **This was a major turning point.**

So, if you go back to early March, you can see the context within the timeline of the actions taken by nursing homes that first encountered the virus. **What we know now, we did not know then.** Nursing homes were quickly overwhelmed by the outbreaks. Symptoms were contrary to what was expected, and they progressed rapidly once individuals were infected. **Nursing homes' traditional infection control practices were not sufficient, and the sector looked to public health officials for guidance.** Unfortunately, **the science had not caught up to the virus** – and so the guidance was insufficient at first and was continuously changing.

By the summer we believed we understood the basics of the virus and the resources and actions needed to combat it: **enhanced infection control, source control, testing, cohorting, and PPE to protect both residents and staff.** But a key indicator of nursing home outbreaks both in Connecticut and across the country was and still is *community prevalence of the virus*. This is why the State's rapid post-Halloween rise in community prevalence brought with it an increase in nursing home outbreaks. With all of the testing, screening, PPE, and visitation restrictions in place, the virus still found its way in and once it entered, it spread. Connecticut's experience was the very same as all the other states – those nursing homes that kept the virus at bay during the first surge of the pandemic were hit the hardest during this second surge. It is the nature of this insidious virus.

The vaccine has brought us hope, but it has not eliminated the mandatory adherence to the core principles of Covid-19 Prevention. The pandemic is not over, and we continue the battle each day. Our workforce is weary and battle worn. They have not been honored like those in the acute care setting, but rather demonized by the press and others. They still worry constantly and now face the delicate balance of protecting against the virus from entering the building and yet allowing loved ones to enter.

We understand that people need someone to blame. This has been an awful year. But we are experiencing a once in a century pandemic and **we ask that you not single out this one sector of the health care field that has worked so hard and with such compassion to protect and care for the most vulnerable older adults in our state.**

Thank you for this opportunity to provide testimony on this bill.

Respectfully submitted,

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