



HUMAN SERVICES COMMITTEE

March 25, 2021

Testimony of Jean Mills Aranha

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

My name is Jean Mills Aranha and I am the Managing Attorney of the Stamford office of Connecticut Legal Services, Inc., where I practice elder law. Connecticut's legal aid programs are private non-profit law firms that provide free legal services to low-income residents of Connecticut, including residents of nursing homes. I served on the Governor's Nursing Home and Assisted Living Oversight Working Group, and on its Staffing Levels subcommittee.

Connecticut's elderly and disabled population has suffered greatly and disproportionately during the COVID-19 pandemic. While the pandemic laid bare many deficiencies in care in skilled nursing facilities, it did not create all of them. Nor will the easing of the pandemic cure such deficiencies. This bill increases minimum staffing ratios for nurses and nurse's assistants and requires a minimum percentage of Medicaid funding to be used for direct care of residents. These provisions will improve the quality of care and make a needed positive difference in the lives of the residents of long-term care facilities.

Inadequate staffing in nursing homes is a longstanding problem. In the 1970's, my mother, a registered nurse, worked nights in one. She was supposed to administer medications and keep up with compliance paperwork. But she couldn't bear watching the call lights of the residents go unanswered, due to lack of enough nurse's aides. Instead, she went to the residents herself to help them with their basic needs. She eventually left that job, as she couldn't meet the residents' needs with the available staff.

In 1987, Congress passed the federal Nursing Home Reform Act, requiring every nursing home to have sufficient staff to care properly for its residents. Specifically:

The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable level of physical, mental, and psychological well-being of each such resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population...¹

¹ 42 C.F.R. §483.35.

Federal law does not mandate any specific number of hours of care that must be provided. Under a regulation promulgated over thirty years ago, Connecticut requires only 1.9 hours of care per resident per day.²

In 2000, the federal Department of Health and Human Services issued a report to Congress after nearly ten years of studying the relationship between nursing staff levels and quality of care for residents. Facilities staffing at lower levels had residents with increased risk of bedsores, malnutrition, abnormal weight loss, and preventable hospitalizations. **The study found that a minimum of 4.1 hours of nursing care per resident, per day, was needed to meet the federal quality standards at that time.**³ Resident acuity has only increased during the last 20 years, so a similar study today might well find a higher necessary minimum.

Nursing homes with more staffing had better outcomes during the pandemic. The Mathematica report found that “[n]ursing homes with higher staffing ratings had significantly fewer cases and deaths per licensed bed.”⁴ An academic study looking at COVID-19 infection incidence and death in Connecticut nursing homes found that “[a]mong facilities with at least 1 confirmed case, every 20 minutes (per resident day) increase in RN staffing was associated with 22% fewer confirmed cases...Among facilities with at least 1 death, every 20 minutes increase in RN staffing significantly predicted 26% fewer COVID-19 deaths.”⁵ The New York State Attorney General reported that New York City facilities with the lowest staffing ratings had almost twice the death rate of facilities with the highest staffing ratings.⁶

The pandemic also showed that the number of social workers and recreational staff in most facilities is too low. These staff are vital to the well-being of the residents, and there are too few of them. The Working Group found that the ratios of residents to these staff should be lower. Section 13 of S.B. 1030 mandates that the Commissioner of DPH study this issue and reduce the ratios. Such a mandate would be a positive addition to S.B. 1057.

But staffing levels are not important just during a pandemic. Many studies have found that staffing levels are too low in many nursing homes.⁷ The National Consumer Voice for Quality Long-Term Care has long advocated for increased staffing, to prevent pressure ulcers, infections, malnutrition, dehydration, injuries from falls, preventable hospitalizations and death. Even good nurses and aides can’t provide quality care if there aren’t enough of them.⁸ Connecticut’s legal

²Section 19-13-D8t (m) Reg. Conn. State Agencies.

³ U.S. Centers for Medicare and Medicaid Services, Abt Associates Inc. *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Report to Congress: Phase II Final*. Baltimore, MD: CMS; 2001.

⁴ *A Study of the COVID-10 Outbreak and Response in Connecticut Long-Term Care Facilities*, p.19, Mathematica Final Report, September 30, 2020, DPH #2021-0041.

⁵ *COVID-19 Infections and Deaths among Connecticut Nursing Home Residents: Facility Correlates*. Li, Y., Temkin-Greener, H., Gao, S., Cai, Xueya, doi:10.1111/jgs.16689.

⁶ New York State Office of the Attorney General Letitia James, *Nursing Home Response to the COVID-19 Pandemic*, pp. 28-29, Revised January 30, 2021.

⁷ See, for example, *The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes*, Harrington, C., et al., Health Services Insights 2016:9 13-19 doi:10.4137/HIS.S38994.

⁸ <https://theconsumervoicework.org/betterstaffing>

services programs have supported raising nursing home staffing levels for many years for the same reasons.

The pandemic did not cause the staffing deficiencies in care in nursing homes, although it exacerbated them. Now that our attention has been focused on the needs of these residents, and after they have suffered the highest proportion of illness and death, we owe it to them to make improvements in our long-term care facility systems for the future. The proposed minimum of 4.1 hours of care per resident per day is a modest ask, given that this minimum was established over 20 years ago, and backed by further study since. It also offers potential cost savings, as unnecessary hospitalizations are reduced by better care.

In addition to increasing staffing levels, S.B. 1057 requires the Commissioner of DSS to establish a minimum percentage of Medicaid reimbursement to nursing homes to be used for the provision of direct care to nursing home residents. This provision will ensure that an appropriate proportion of the substantial money paid to the nursing homes by the Medicaid program is used for direct care of the residents, and prevent an excessive portion of those funds from going to administrative costs, management fees or profits.

As with insufficient staffing levels, the amount spent by facilities on direct care has been a problem for many years. The U.S. Government Accounting Office wrote a report in 2002 entitled *Nursing Homes: Quality of Care More Related to Staffing than Spending*.⁹ The GOA looked at states with very different Medicaid reimbursement rates and found that the percentage spent on staffing did not differ greatly across the states. States paying higher rates to facilities did not have facilities with more staff – the money was spent on other things. A direct care ratio requirement can address this problem.

New Jersey enacted legislation in 2020 requiring a direct care ratio to limit the percentage of reimbursement that can be spent on administrative costs and profits.¹⁰ Connecticut should follow that example and ensure that we are funding quality care for nursing home residents.

Thank you for your work for nursing home residents. I appreciate the opportunity to present my comments in support of this important bill.

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⁹ GAO-02-431R (Jun. 13, 2002), www.gao.gov/assets/100/91315.pdf

¹⁰ A4482/S2758, www.njleg.state.nj.us/2020/Bills/A4500/4482_R2.PDF