



February 20, 2025

Testimony of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL):

On behalf of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL), a trade association of skilled nursing facilities and assisted living communities, my name is Matthew Barrett, the association's President and CEO. Thank for this opportunity to present testimony **in opposition to S.B. No. 1279 AN ACT CONCERNING NURSING HOME STAFFING.**

Increased Minimum Staffing Mandate Effective July 1, 2026 to 3.6 Hours Per Resident Per Day

The bill requires the Department of Public Health, on and after July 1, 2026, (1) establish minimum staffing level requirements for nursing homes of at least three and six-tenths hours of direct care per resident per day, including sixty-six-hundredths of an hour of care by a registered nurse, forty-nine-hundredths of an hour of care by a licensed practical nurse and two and forty-five-hundredths hours of care by a registered nurse's aide, and (2) modify staffing level requirements for social work and recreational staff of nursing homes such that the requirements (A) for social work are one full-time social worker per sixty residents, and (B) for recreational staff are higher than the requirements prior to January 1, 2024, as deemed appropriate by the Commissioner of Public Health. Such minimum staffing level requirements shall remain in effect until the department establishes minimum staffing level requirements pursuant to subsection (c) of this section. The bill repeals the existing 3.0 hour per resident per day minimum staffing requirement that has not yet achieved final approval of the Connecticut Legislative

Regulations Review Committee.

Staffing Mandate Increases Again January 1, 2028 to 4.1 Hours Per Resident Per Day / Also Amends Social Worker and Recreation Staffing Requirements

Further, on or before January 1, 2028, the bill additionally increases the staffing mandate as follows: (1) establish minimum staffing level requirements for nursing home facilities of at least four and one-tenth hours of direct care per resident per day, including three-quarters of an hour of care by a registered nurse, fifty-four-hundredths of an hour of care by a licensed practical nurse and two and eighty-one-hundredths hours of care by a registered nurse's aide, and (2) modify staffing level requirements for social work and recreational staff of nursing homes such that the requirements (A) for social work are one full-time social worker per sixty residents, and (B) for recreational staff are higher than the requirements prior to January 1, 2024, as deemed appropriate by the Commissioner of Public Health.

DPH State Regulations Required But Policy and Procedure Authority Repealed

Further, the bill clarifies that the commissioner of public health must adopt state regulations to implement the provisions of this section, and it repeals the commissioner's authority to implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulations, provided notice of intent to adopt regulations is published on the eRegulations System not later than twenty days after the date of implementation. The bill also repeals the provision that such policies and procedures implemented pursuant to this section are valid until the time final regulations are adopted.

Class B Violation for Staffing Compliance Failures

Sec. 2 of the bill provides that, on and after July 1, 2026, if the Commissioner of Public Health finds that a nursing home facility has substantially failed to comply with a nursing home facility staffing level requirement established pursuant to section 19a-563h, as amended by this act, such violation shall be considered a class B violation pursuant to section 19a-527, and, the commissioner may (1) take any disciplinary action against the nursing home facility permitted under section 19a-494, and (2) issue or cause to be issued a citation to the licensee of such nursing home facility pursuant to the provisions of section 19a-524.

Staffing Levels Posting Requirement in the Nursing Home

Next the bill requires that a citation of a nursing home facility staffing level requirement set forth in the regulations of Connecticut state agencies must be prominently posted in the nursing home facility and included in the listing prepared by the Department of Public Health pursuant to the provisions of section 19a-540.

Finally, the bill specifies that the Commissioner of Public Health must adopt regulations to implement the provisions of this section, but it deletes a reference to adopted regulations, presumably a technical change.

Background

Existing law requires DPH to adopt regulations in accordance with Connecticut's Uniform Administrative Procedures Act (chapter 54) to implement the provisions of the bill, and it authorizes, but doesn't require, DHP to implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulations, provided notice of intent to adopt regulations is published on the eRegulations System not later than twenty days after the date of implementation. The existing law provides that policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted.

As background, Connecticut nursing home director care staffing minimums were increased under amended DPH policies and procedures issued on January 8, 2024 in alignment with the minimum direct care staffing increase of 1.9 hours to 3.0 hours in a twenty-four-hour period adopted by the Connecticut General Assembly in 2021 (PA 21-185). A DPH proposed regulation mirroring the minimum staffing language included in the agency policies and procedures is moving forward in our state's regulations review process under the state Uniform Administrative Procedures Act (UAPA) remains pending, while the proposed regulation was rejected without prejudice at the January 2025 meeting of the LLRC as several legislators expressed concerns about the increased costs to the nursing home providers and the state in the regulation. Additionally:

- Connecticut nursing homes continue to be required to provide twenty-four-hour RN staffing in the facility.

- Connecticut nursing homes must also adhere to strict state and federal law requiring staffing that is sufficient to meet the care need of the facility's resident population. Staffing violations are strictly enforced by DPH and includes significant penalties.

The DPH policies and procedures have the force and effect of law while final adoption of corresponding proposed regulation by the Legislative Regulations Review Committee (LRRC) is pending. These policies and procedures, and proposed pending regulations increase the minimum staffing requirements from 1.9 hours to 3.0 hours in alignment with PA 21-185 as follows:

The amended policies and procedures, which became effective January 5, 2024, require nursing homes to provide a minimum of 3.0 hours of *total nursing and nurse aide care* while also adhering to the minimum requirements established in the following schedules:

7 a.m. to 9 p.m.	2.17 hours
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9 p.m. to 7 a.m.	0.83 hours
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Nursing homes must ensure that 0.84 hours of care in the ratio above is provided by licensed nursing personnel as follows:

7 a.m. to 9 p.m.	0.57 hours
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9 p.m. to 7 a.m.	0.27 hours
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The amended policies and procedures preserve the 3.0 minimum staffing ratio for direct care services but leave to the nursing home's discretion the allocation of nursing and nurse aide services. It is important to note that this staffing ratio is a minimum and that *federal and state law require nursing homes to staff appropriately to meet the needs of each resident*.

In summary, the rule issued by DPH on January 8, 2024 provides for .83 licensed staff (RN and LPN) and 2.17 additional direct care staffing from combined additional (non-duplicated) licensed staff and nurse aide personnel at 2.17 hours, and equals 3.0 hours of direct care as required by PA 21-185.

Substantial Non-Compliance Across the Nursing Home Sector and Significant Medicaid and provider cost increases would result from passage of SB 1279

It should be noted that on-line CMS reported staffing averages for Connecticut nursing homes, derived from nursing home payroll-based journal reports uploaded to CMS, indicate the following averages for RN, LPN and CNA hours in a twenty-four hour period:

Registered Nurse hours per resident per day ↑ <i>Higher numbers are better</i>	43 minutes National average: 40 minutes Connecticut average: 42 minutes
LPN/LVN hours per resident per day ↑ <i>Higher numbers are better</i>	35 minutes National average: 52 minutes Connecticut average: 50 minutes
Nurse aide hours per resident per day ↑ <i>Higher numbers are better</i>	1 hour and 53 minutes National average: 2 hours and 19 minutes Connecticut average: 2 hours and 14 minutes

Source: <https://www.medicare.gov/care-compare/> February 14, 2025.

A review of the most recent Medicaid nursing home cost reports will also demonstrate that a substantial increase Medicaid cost will similarly result a significant number of Connecticut nursing homes would fail to meet the delineated standards prescribed by S.B. No. 1279. CAHCF estimates substantial and immediate Medicaid increased costs associated with implementation of the measure because such mandated cost increase would require upward adjustments to the Medicaid rates under Section 17b-340 of the general statutes and Section 17-311-52(u) of the regulations of Connecticut state agencies. These statutory and regulatory provisions are clear that immediate unfunded Medicaid rate increases would be required at a time when the Connecticut Medicaid program is currently reporting a projected spending deficiency of approximately \$280 million, nor would the law and regulations allow postponement of such cost increases to a future rebasing of the rates.

As a matter of public health policy, dictating these detailed percentages of care in each of the direct care categories, in CAHCF's view, undermines quality of care by eliminating the flexibility that the licensed nursing home professionals have under current law to assign staff in the percentages they have determined to meet the care needs of their resident population. CAHCF also cautions that because of the ongoing staffing shortages in the section, nursing homes will

inevitably need to unsatisfactorily rely, in increasing frequency, on temporary nursing staffing agencies in an attempt to comply with these highly prescriptive standards. Once more, Connecticut nursing homes under current federal and state law must provide sufficient staffing to meet the care needs of the residents with significant consequences in the existing DPH regulatory survey and certification process.

For these reasons, CAHCF is opposed to S.B. No. 1279.

For additional information on this testimony, please contact Matthew Barrett, President and CEO of CAHCF/CCAL, at mbarrett@cahcf.org.