



February 29, 2024

Testimony of Matt Barrett, President and CEO of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL):

Good afternoon Senator Hochadel, Representative Garibay and to the members of the Aging Committee. My name is Matt Barrett. I am President and CEO of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL). CAHCF/CCAL is a trade association of skilled nursing facilities and assisted living communities. Thank you for this opportunity to testify.

GOVERNOR'S BILL NO. 5056 AN ACT PROMOTING NURSING HOME RESIDENT QUALITY OF LIFE.

SEC. 1. PHASE OUT OF NURSING HOME ROOMS OF MORE THAN TWO BEDS

This section provides Effective July 1, 2025, all licensed chronic and convalescent nursing homes or rest homes with nursing supervision (skilled nursing facilities) are prohibited from placing a newly admitted resident in a room containing more than two beds. Effective July 1, 2026, all skilled nursing facilities would be prohibited from containing contain more than two beds. A violation of the requirements of this subsection shall constitute a Class B violation under section 19a-527. Each day a skilled nursing facility fails to comply with the requirements of this subsection may be considered a separate violation for the purpose of imposing a penalty pursuant to section 19a-528.

We are recommending a number of revisions to this section of the bill.

First, because implementation of this section may mean that a nursing home resident could be involuntarily transferred out of their room, we think that an additional protection should be added that would provide the resident with some means to halt implementation of this requirement if a resident objects to being involuntarily transferred.

Second, because a necessary renovation of the facility infrastructure may be required to reconfigure space in compliance with the new rule, we think that a provision should be added that would provide state compensation from the Medicaid program or other resources to cover those costs.

Third, because in some instances a renovation may not be possible leaving the only alternative to remove the bed from the facility's license, we think that the Medicaid rate to the facility should be adjusted to compensate the facility for this lost revenue.

Finally, noting that statewide nursing home occupancy has now risen to nearly 87%, we are recommended that an access to care analysis be done by the Department of Social Services similar to evaluation that are required for licensed bed reductions or nursing home closures and that a determination that the licensed bed is needed would also halt implementation of this requirement.

SECTION 2 AND SECTION 3. GOVERNOR PROPOSES NEW NURSING HOME "CENTER OF EXCELLENCE and NUERSING HOME DASHBOARD

We support these provisions and as named stakeholders in the development of these proposed measures we are committed to working collaboratively on the implementation of these measures. While federal one-time ARPA dollars have been proposed to implement these sections, we are recommending that the need for ongoing state appropriations should be evaluated if there are ongoing annual maintenance costs associated with updating data and changing policies or if these costs will be within available agency appropriations.

SECTION 4. RECOMMEND RECONVENING THE WAIT LIST WORKING FOR A RECOMMENDATION ON THESE NEW PROPOSALS.

We are recommending that the issues raised in this section should be evaluated by the nursing home wait list work group that convened and made consensus recommendations for adoption this session, however these additional proposals were not fully evaluated

by the workgroup in various meetings over the last year. The workgroup included the state's long term care ombudsman, the Department of Public Health, and representatives from the nursing home trade associations. The work group can expeditiously reconvene and make a recommendation on these additional proposals before the end of this session.

SECTION 5. RHSN LICENCE CATEGORY TERMINATED ON PASSAGE UNLESS A ONE-TIME ONE YEAR RENEWAL IS GRANTED

We understand that the expectation in phasing out the rest home with nursing supervision licensure category is that these beds would need to be re-licensed under the category of chronic and convalescent facility. In this regard, if there are costs associated with this, we are recommending state Medicaid reimbursement be available to cover the costs of any renovations or facility improvements that may be necessary.

SECTION 6. ADDS "THE REQUIREMENTS OF APPLICABLE STATE STATUTES OR REGULATIONS" TO THE REMEDIES AND ACTIONS AUTHORIZED IN 17b-357.

We are recommending that the broad reference to the requirements of applicable state statutes or regulations be specified in the bill so that the law will be clear as to what sections of other laws or regulations will be linked to this section.

SECTION 7. PLAN OF CORRECTION DISCIPLINARY ACTIONS

We believe that the "failure of the institution to comply with a plan of correction accepted by the department may be the subject of disciplinary action against the institution pursuant to section 19a-494" is currently an authorized remedy in the law, therefore we would like to understand better what additional authority is proposed here before asserting a final position on this provision.

SECTIONS 8 - 10 CONCERNING MANAGED RESIDENTIAL COMMUNITY DISCLOSURES IN WRITTEN RESIDENCY AGREEMENTS

We support these provisions as they implement the consensus recommendations of the long-term care ombudsman working group formed in 2022 that included various stakeholders, including the Connecticut trade associations representing managed residential and assisted living communities.

SECTION 11. OPPOSED AS DRAFT - CONCERNING PROPOSED DSS FORENSIC AUDITS

We are recommending additional provisions be added to this section and are committed to working with the Department of Social Services this session to address two areas of concern: First, we think that the language that “a facility identified by the department as potentially experiencing a serious financial loss, including, but not limited to, any reports or subsequent testimony related thereto...” is too broadly stated and a more specific agency finding should be required initially before a costly forensic audit is initiated. Second, as drafted the facility, may have to bear the substantial costs of a forensic audit that is unilaterally directed by the agency without any input or recourse from the provider. This is a very open-ended policy, with potential significant costs, that could further financially de-stabilize a facility already identified as potentially experiencing a serious financial loss. For these reasons, we are looking for the opportunity to meet with representatives of the Department of Social Services related to these concerns this session.

SECTION 12. OPPOSE AS DRAFTED STATE RECEIVERSHIP AUTHORITY REVISION – RECOMMENDED SUBSTITUTE LANGUAGE FOR ADOPTION

We do not recommend repealing the decades-long policy in Connecticut of both requiring a finding that facility or home has sustained a serious financial loss or failure which jeopardizes the health, safety and welfare of the patients or there is a reasonable likelihood of such loss or failure in order to initiate a court receivership of the facility. If the statutory construction requires clarification of this authority that even a reasonable likelihood that a financial loss or failure which jeopardizes the health, welfare and safety of the residents, we recommend that follow statutory language as a substitute under (3):

(3) such facility or home has sustained a serious financial loss or failure which jeopardizes the health, safety and welfare of the patients or there is a reasonable likelihood of such loss or failure which may jeopardizes the health, safety and welfare of the patients;

SECTION 13 – OPPOSED AS DRAFTED PROVISION TO REPEAL LICENSED NURSING HOME ADMINISTRATOR RECEIVERSHIP QUALIFICATION – RECOMMENDED SUBSTITUTE FOR ADOPTION

We do not recommend eliminating in whole the requirement that a nursing home receiver must be a nursing home facility administrator licensed in the state of Connecticut

with substantial experience in operating Connecticut nursing homes. However, we understand that the state has an insufficient supply of receivers. To address this concern but preserve the existing policy we recommend the following substitute:

“The court may appoint any responsible individual whose name is proposed by the Commissioner of Public Health and the Commissioner of Social Services to act as a receiver. For a nursing home facility, such individual shall be a nursing home facility administrator licensed in the state of Connecticut with substantial experience in operating Connecticut nursing homes. For a residential care home, such individual shall have experience as a residential care home administrator or, if there is no such individual, such individual shall have experience in the state similar to that of a residential care home administrator. The Commissioner of Social Services shall adopt regulations governing qualifications for proposed receivers consistent with this subsection. In the event that there is an insufficient supply of nursing home facility administrator licensed in the state of Connecticut with substantial experience in operating Connecticut nursing homes for court appointment, the court may appoint an individual with substantial experience in the delivery of high-quality health care services and successful management or operation of long-term care facilities, and have achieved an educational level or have such licensure as customarily is held by persons managing or operating health care facilities similar to the facility or facilities subject to receivership. No state employee or owner, administrator or other person with a financial interest in the nursing home facility or residential care home may serve as a receiver for that nursing home facility or residential care home. No person appointed to act as a receiver shall be permitted to have a current financial interest in the nursing home facility or residential care home; nor shall such person appointed as a receiver be permitted to have a financial interest in the nursing home facility or residential care home for a period of five years from the date the receivership ceases.

SECTION 14 CONCERNING MANAGEMENT SERVICES

This provision appears to apply the public policy adopted last session concerning nursing home ownership disclosures and approvals in the statutory change of ownership approval process to also apply to nursing facility management services.

Thank you.

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