CAHCF/CCAL

Connecticut Association of Health Care Facilities
Connecticut Center for Assisted Living

March 5, 2024

Testimony of Matthew V. 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 ***in support of S.B. Bill No. 246 AN ACT ESTABLISHING MAXIMUM RATES FOR TEMPORARY NURSING SERVICES PROVIDED BY A TEMPORARY NURSING SERVICES AGENCY TO A NURSING HOME FACILITY.***

S.B. 246 will cap a temporary nursing services agency's rate it can charge a Connecticut nursing home for staffing to two hundred per cent of the median hourly wage for nursing personnel by type of nursing personnel in the state, as published in the most recent State Occupational Employment and Wage Estimates for the state by the United States Department of Labor, Bureau of Labor Statistics, and the rate has to include all charges for administrative fees, contract fees and other special charges. The proposal is modeled from Rhode Island's legislation passed last year (attached). These are reasonable caps:

- Registered Nurses (RN): $ 82.66
- Licensed Practical Nurse (LPN): $ 60.40
- Certified Nursing Assistant (CNA): $ 35.42.

Connecticut should join Massachusetts, and most recently Rhode Island (June 19, 2023), and several other states, in adopting legislation that establishes the maximum charges a

temporary nursing service agency for nursing personnel (RN, LPN, CNA) supplied to a Connecticut skilled nursing facility. The proposed legislation for Connecticut is modeled after Rhode Island legislation that establishes a maximum charge of 200% of the US Department of Labor Bureau of Labor Statistics published and reported median hourly wage data for the nursing personnel for Connecticut.

In this environment of severe staffing shortages, Connecticut's skilled nursing homes have needed to in increasing numbers turn to such staffing agencies, but the unregulated and exorbitant fees charged by staffing agencies, sometimes referred to as "staffing pools," are causing significant financial instability for many skilled nursing operators.

The excessive fees are well documented in a recent Connecticut Department of Social Services (DSS) report titled *"REPORT CONCERNING TEMPORARY NURSING SERVICE AGENCIES FOR CONNECTICUT NURSING HOMES" (September 2023),* where the agency concluded: "Excessive charges are not financially sustainable – not only for the nursing homes but also for the Medicaid program since the Connecticut Medicaid pays for approximately 73% of the residents living in a nursing home." (p.6). The full report is attached. Specifically, DSS concluded that "total direct care staffing costs" associated with the staffing agencies has increased to a staggering $140.3 million based on 2022 cost reports. Moreover, DSS observed that costs could be reduced by $61.4 million if such agency costs were replaced with staff directly employed by the skilled nursing home (p.5).

Finally, reducing the reliance on staffing agencies will result in the consistent assignment of directly-employed staff associated with higher quality of care and the policy will also improve the continuity of patient care by curtailing the migration, sometimes called "poaching," of directly-employed staff to the contracted staffing agencies.

Connecticut nursing homes from across our state are submitting written testimony on S.B. 246 to specifically demonstrate why they are asking that these fees be capped. For these reasons, CAHCF urges adoption of S.B. No. 246. Thank you.

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

STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

Andrea Barton Reeves, J.D.
Commissioner

Ned Lamont
Governor

Susan Bysiewicz
Lt. Governor

OFFICE OF THE COMMISSIONER

September 29, 2023

Honorable Matthew L. Lesser, Senate Chair
Honorable Jillian Gilchrest, House Chair
Human Services Committee
Room 2200, Legislative Office Building
Hartford, CT 06106

Honorable Catherine Osten, Senate Chair
Honorable Toni E. Walker, House Chair
Appropriations Committee
Room 2700, Legislative Office Building
Hartford, CT 06106

Honorable Jan Hochadel, Senate Chair
Honorable Jane Garibay, House Chair
Aging Committee
Room 011, Legislative Office Building
Hartford, CT 06106

Re: DSS Temporary Nursing Services Agency Report

Dear Honorable Co-Chairs of the Human Services and Appropriations Committees:

In accordance with Public Act No. 22-57 An Act Concerning Temporary Nursing Services Agencies, enclosed please find the Department of Social Services' report in accordance with the provisions of section 11-4a of the general statutes. This report illustrates the growing reliance on the use of temporary staffing agencies to meet staffing needs of Connecticut nursing homes, and provides recommendations to how best to ensure that a nursing home facility is able to maintain adequate nursing personnel.

Sincerely,

Andrea Barton Reeves, J.D.
Commissioner

Cc: Jeffrey R. Beckham, Secretary of OPM
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DEPARTMENT OF SOCIAL SERVICES

REPORT CONCERNING TEMPORARY NURSING SERVICE AGENCIES FOR CONNECTICUT NURSING HOMES

SEPTEMBER 2023

In accordance with Public Act No. 22-57 AN ACT CONCERNING TEMPORARY NURSING SERVICES AGENCIES, the Department of Social Services (Department) shall submit a report in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to aging, human services, and public health with recommendations regarding temporary nursing services agencies. In response to the growing reliance on the use of temporary staffing agencies to meet the need of Connecticut nursing homes, the Connecticut legislator passed PA 22-57 requiring temporary nurse staffing agencies to register with the Department of Public Health (DPH) and to submit financial data such as revenue, number of personnel, average fees charged to DPH. The Department will compile and review this data and submit a report that may include recommendations such as (1) what, if any, changes are needed in the regulation of rates charged by such agencies, and (2) how best to ensure, within available appropriations, that a nursing home facility is able to maintain adequate nursing personnel during a public health emergency declared pursuant to section 19a-131a of the general statutes.

Background

Before the COVID-19 outbreak, Connecticut nursing homes reported staffing levels largely in line with the national average and those of neighboring states Massachusetts, New Jersey, New York, and Rhode Island,[1] but the COVID-19 pandemic increased stressors on the healthcare workforce and disproportionately impacted residents who live in long-term care settings. Nationally, nursing home residents are approximately 1% of the population but represented more than 40% of all COVID-19 related deaths by September 2020. In Connecticut, cumulative deaths among long-term care residents represented nearly three-quarters of all COVID-19 related deaths by July 30, 2020.[1]

The COVID-19 pandemic resulted in nursing homes reporting increased numbers of staff absences due to staff burnout, callouts due to childcare responsibilities, or fear of contracting the virus. According to an analysis conducted by the Connecticut Mirror on data reported by nursing homes to the federal Centers for Medicare and Medicaid Services (CMS), 2,234 Connecticut nursing home employees tested positive for

[1] Mathematica Inc. *A Study of the COVID-19 Outbreak and Response in Connecticut Long-Term Care Facilities: Final Report.* (Princeton, NJ. September 30, 2020). https://www.mathematica.org/publications/fr-a-study-of-the-covid-19-outbreak-and-response-in-connecticut-long-term-care-facilities

COVID-19 and another 1,166 employees were presumed to have contracted COVID-19.[2] Long-term impact of the pandemic resulted in a national shortage of healthcare workers as staff left the industry seeking career opportunities in other economic sectors.

According to the National Institutes of Health, since the end of the public health emergency the nursing profession faced shortages due to "lack of potential educators, high turnover, and inequitable workforce distribution."[3] More than 275,000 additional nurses are needed between 2020 to 2030 to meet the growing national demand, and employment opportunities for nurses are projected to grow at a faster rate (9%) than any other occupation through 2026.[3] In Connecticut, based on Department of Public Health (DPH) data, in 2020 there were 89,322 registered nurses and licensed practical nurses registered to practice in the state and 44,086 were actively practicing in Connecticut's workforce. Of those not actively practicing, approximately 20% indicated that they practiced in another state, with the highest number working in New York (1,297), Massachusetts (918), and Florida (591). [4] After the COVID-19 pandemic, the workforce shifted dramatically and in Connecticut it is estimated that the state needs approximately 3,000 new nurses annually to meet current and future demand, but in-state nursing schools are only graduating an estimated 1,900 new candidates annually resulting in continued workforce shortages over the long-term. [5]

CMS conducted a national survey of nursing homes in 2022 with the intent of developing "a minimum staffing requirement for the nations nursing homes." Results of the national survey were issued in June 2023 in a report titled "Nursing Home Staffing Study Comprehensive Report." CMS focused on the level and type of staff needed to "promote acceptable quality and safety, so that residents are not at substantially increased risk of not receiving the safe and quality care they deserve."[6] The CMS report noted that nursing homes are "challenged in hiring and retaining direct care workers, because of workforce shortages and competition from higher-paying agency positions."[6] Nursing homes face competition from other sectors of healthcare, such as hospitals, which may offer more lucrative signing bonuses, pay differential, or higher hourly wages than nursing homes. As a result, many nursing homes contract with temporary agency staff or travel agencies to fulfill staffing requirements, but use of agency staff may result in decreased quality of care for nursing home residents. Most nursing homes also described hospitals as a main competitor, traditionally paying more competitive wages, and offering signing bonuses to nurses and CNAs. In addition, staffing agencies reportedly started offering more competitive salaries, signing bonuses, and new benefits to attract workers which was a change from pre-pandemic practice. (ASPE. September 12, 2022 Issue Brief.) [7]

According to the CMS national study, agency staff were considered by full-time employed nursing home staff as "too transient to establish relationships with residents and did not know or understand the routines of residents." The CMS study also noted that families and residents expressed concerns with agency staff

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[2] 'Nursing homes struggle to maintain staffing as COVID cases continue to rise". Carlesso and Pananjady. December 10, 2020. https://ctmirror.org/2020/12/10/they-cant-continue-nursing-homes-struggle-to-maintain-staffing-as-covid-cases-continue-to-rise/

[3] Haddad LM, Annamaraju P, Toney-Butler TJ. Nursing Shortage. 2023 Feb 13. https://www.ncbi.nlm.nih.gov/books/NBK493175/

[4] CT Data Collaborative. https://www.ctdata.org/nursing-2020

[5] Connecticut Public Radio. March 7, 2023. https://www.ctpublic.org/news/2023-03-07/new-nursing-program-at-ecsu-aims-to-help-combat-ct-nursing-shortage

[6] CMS. *Nursing Home Staffing Study Comprehensive Report.* Abt Associates. June 2023. https://edit.cms.gov/files/document/nursing-home-staffing-study-final-report-appendix-june-2023.pdf

[7] Assistant Secretary for Planning and Evaluation (ASPE). Health and Human Services. 2022. https://aspe.hhs.gov/sites/default/files/documents/f7c0751d7b3ae7337a3b5d5e3dcc2ae7/nh-reliance-contract-staff-brief.pdf

and "lack of person-centered care as well as a lack of care continuity." The CMS survey reported that in one nursing home, agency staff represented 75% of total staffing and the pay differential of agency staff was "significantly more per hour than employed staff, and they have much greater flexibility in choosing what shifts to work, which resulted in feelings of unfairness and resentment." The CMS study also noted that while nursing homes often need to rely on agency staff to fulfill staffing requirements, agency staff were described as "less committed" and called out of work "frequently and at the last minute … delivering less effective and efficient care than did regular, employed nursing home staff."

In 2022, the Department required Connecticut nursing homes to submit plans that report on "efficiency, quality of care and consolidation of facilities." Nursing homes were instructed to report how they would address impacts of the pandemic and submit plans of action to support efficiency and improved quality for residents. The Department issued the "Report on Connecticut Nursing Home Rebalancing & Efficiency Plans"[8] in July 2022 where the majority of nursing homes reported on the difficulty in "hiring staff due to the national health care staffing crisis and noted excessive charges by temporary staffing agencies and inability to pay high staffing agency costs over the long-term."

In response to the growing concern regarding excessive rates and increased cost of agency staff, the Connecticut legislature passed Public Act 22-57 "An Act Concerning Temporary Nursing Services Agencies"[9] requiring staffing agencies operating in Connecticut to register with the Department of Public Health (DPH). Agencies were required to submit to DPH financial data such as (1) itemized revenues and costs for each such agency; (2) average number of nursing personnel employed by such agency; (3) average fees charged by such agency by type of nursing personnel and type of health care facility; (4) the states of the permanent residences of nursing personnel supplied by the agency to health care facilities in the state, aggregated by type of nursing personnel; and (5) any other information prescribed by the Commissioner of Public Health.

Limitations of this Report

The Department reviewed data submitted to DPH and developed recommendations regarding rates charged by agencies, and how best to ensure nursing homes are able to maintain nursing personnel. It must be noted that when the Department reviewed the data, it identified approximately 20% of the staffing agencies did not provide complete information or no information at all. Gaps in data submitted by staffing agencies to the State included a lack of the number of available agency staff, missing hourly rates, and missing company financial documentation such as the balance sheets and income statements. In some cases, an agency provided the parent company financial statements, but this information did not report down to the staffing agency financial detail. Due to the lack of complete financial documentation, the Department was unable to review the financial position and profitability of the agency. It was also not always clear if an agency had an active contract with a Connecticut nursing home or was simply registering with the Department of Public Health.

[8] Department of Social Services. Nursing Home Medicaid Cost Reports. https://portal.ct.gov/-/media/Departments-and-Agencies/DSS/Highlights/Nursing-Home-Efficiency-Report_July2022-_Final.pdf

[9] https://www.cga.ct.gov/2022/ACT/PA/PDF/2022PA-00057-R00HB-05313-PA.PDF

Review of Staff Agency Charges

According to 2022 Annual Medicaid Nursing Home Cost Reports filed with the Department, 76% of Connecticut nursing homes contracted with agency staff for registered nurse (RN) services, 71% contracted with agency staff for licensed practical nurse (LPN) services, and 70% contracted with agency staff for certified nursing assistant (CNA) services.[10]

In total, 205 staff agencies registered with DPH but, of the 205 agencies, only 92 provide staffing services to nursing homes. For purposes and scope of this report, the Department only reviewed documents submitted by the 92 agencies that provide services to nursing homes.

Of the 92 agencies that provide staffing services to nursing homes, 16 reported being located in Connecticut, 1 located in Arkansas, 3 in California, 1 in Colorado, 13 in Florida, 1 in Georgia, 1 in Illinois, 1 in Kansas, 3 in Massachusetts, 1 in Missouri, 1 in North Carolina, 14 in Nebraska, 2 in New Hampshire, 9 in New Jersey, 9 in New York, 3 in Ohio, 1 in Oklahoma, 1 in Pennsylvania, 10 in Texas and 1 in Virginia.

Staffing agencies not only varied in the services offered to nursing homes but also in the rates charged for health care professional services. For example, 15 agencies stated they offered advanced practical registered nursing (APRN) services but only 6 of the 15 had APRNs available for work, and of those 6 agencies, the rates charged by the agencies varied dramatically between $40.00 to $185.00 per hour.

The chart below labeled Exhibit 1, reports on the licensed professional services and the rates charged by the 92 staff agencies including the number of contract staff available for hire. Please note, although an agency may have reported that they offer all licensed professional services (APRN, RN, LPN, and CNA), the agency may not have staff readily available. This may result in a nursing home contracting with multiple staffing agencies to fulfill staffing requirements for different licensed professionals. Connecticut staffing requirements are established under DPH Regulations 19a-13-D8(t) and require 24 hours a day registered nurse coverage, at least one licensed nurse on each occupied floor, 2.16 nurse's aide coverage and .84 licensed nursing personnel coverage for a total of 3.00 per day.

Exhibit 1: Summary of Staffing Agency Available Staffing Services and Professional Rates

	APRN	RN	LPN	CNA
Number of agencies offering the service	15	71	72	71
Number of agencies with available staff	6	60	62	64
Number of professionals available for hire	20	4,439	14,056	33,190
Maximum hourly rate charged by agency with available staff	$185.00	$160.00	$133.00	$122.00
Minimum hourly rate charged by agency with available staff	$40.00	$45.00	$25.00	$16.00
Average Hourly Rate (Mean)	$109.17	$88.18	$62.82	$43.03
Weighted Average Hourly Rate	*$139.00*	*$62.90*	*$53.93*	*$35.83*

Data submitted by agencies indicated that some agencies have a higher concentration of available workers

[10] https://portal.ct.gov/DSS/Health-And-Home-Care/Medicaid-Nursing-Home-Reimbursement/Nursing-Facility-Cost-Reports/Cost-Report

than others. For example, one staffing agency has 10 available APRNs or 50% of the total available APRNs, while two agencies had only one available APRN professional each.

Exhibit 2. Staff percentage located within an agency providing the largest number of professionals

	Number of Agencies with Available Staff	Agency with 50% or more available staff	Percentage of staff located within the agency providing the largest # of professionals in this category
APRN	6	1 agency (Florida)	50%
RN	60	1 agency (Virginia)	61%
LPN	62	1 agency (Virginia)	68%
CNA	64	1 agency (Virginia)	63%

Nursing homes reported in the July 2022 efficiency plan reports[8] that staffing agency costs were increasing overall nursing home costs and in some cases were charging twice the hourly rate compared to wages paid to full-time employees. The Department reviewed the 2022 Medicaid cost reports and compared the average rate paid to permanent full-time employee to the average rate charged by the staff agency. (Exhibit 3) Based on the 2022 cost reports[11] submitted for the period ending 9/30/2022, the average hourly rate for RN employed directly by a nursing home was $49.05 compared to the average staffing agency hourly rate of $91.28. This is 86.1% higher than staff employed directly by a nursing home. The average hourly rate for LPN staff employed directly by a nursing home was $35.64 compared to the average staff agency rate of $63.92 or 79.4% higher than staff employed directly by the nursing home. The average hourly rate for CNA staff employed directly by a nursing home was $21.63 compared to $37.38 for agency staff or 72.8% higher. For reference, the 2022 annual Medicaid cost reports showed direct care (RN, LPN, CNA) agency staff worked a total of 2,736,017 hours, which resulted in total costs of $140.3 million. If these staffing agency hours were replaced with staff employed directly by the nursing homes the total cost would be approximately $78.9 million. Total direct care staffing costs would be reduced by $61.4 million or 44%.

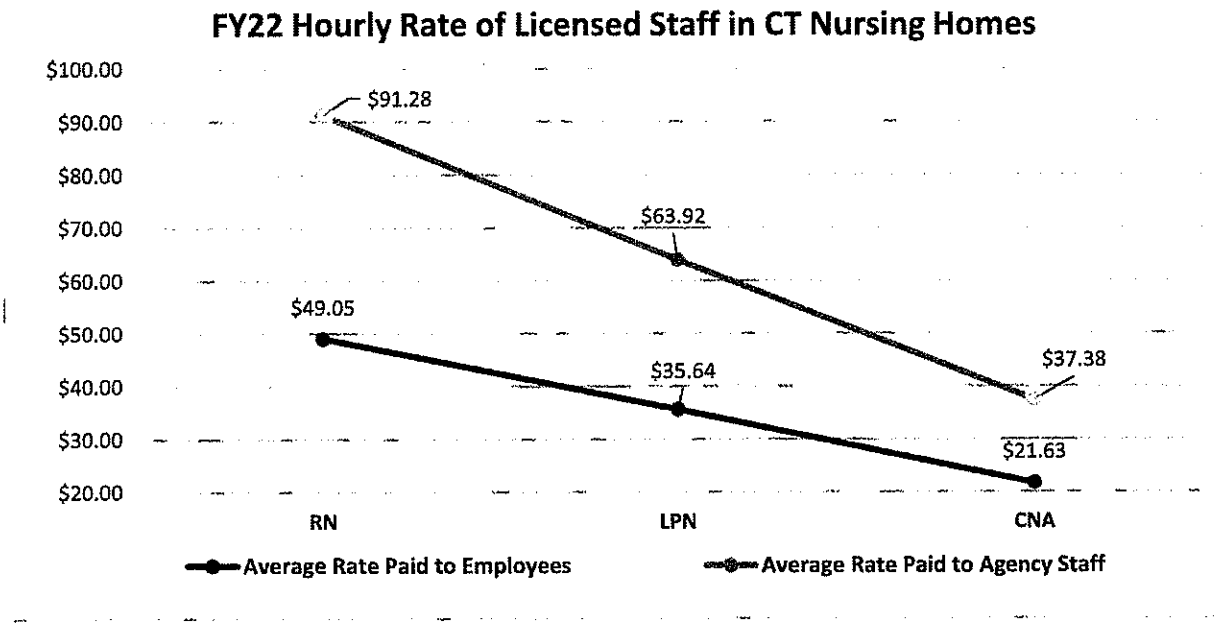
According to a 2022 survey conducted by the American Health Care Association and National Center for Assisted Living of 759 nursing homes, 75% reported hiring temporary agency staff and that staffing agencies are charging two to three times pre-pandemic rates.[12] 98% of nursing homes also reported difficulty in hiring staff and lack of qualified candidates was the number one obstacle in hiring full-time employees. Financial impacts of staffing shortages increase overall expenses as 99% of nursing homes have asked current staff to work overtime, 71% have hired temporary agency staff, and 61% limited new admissions which results in decreased revenue. (AHCA. 2022)

Exhibit 3. Hourly rate paid to employees and average rate paid to agency staff

FY 2022 Medicaid Cost Report	***RN***	***LPN***	***CNA***
Average Rate Paid to Employees	$49.05	$35.64	$21.63
Average Rate Paid to Agency Staff	$91.28	$63.92	$37.38
Agency Staff Rate is Greater than Employee Rate	***86.1%***	***79.4%***	***72.8%***

[11] FY 2022 Medicaid Cost Reports: https://portal.ct.gov/DSS/Health-And-Home-Care/Medicaid-Nursing-Home-Reimbursement/Nursing-Facility-Cost-Reports/Cost-Report

[12] https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/SNF-Survey-June2022.pdf



Recommendation

The national healthcare worker shortage has resulted in the increased use of temporary staff which is unsustainable, and Connecticut should develop a multi-prong approach to attracting permanent healthcare employees. Nursing homes are under increased financial pressure due to higher rates charged by staff agencies and should work to replace contract staff with full-time employees. Employment of full-time workers will **1) reduce the financial burden on nursing homes and ultimately the state**, and **2) increase quality of care**.

1. Reduced Financial Burden

Data submitted by the staffing agencies show they are charging 73% to 86% more than employee hourly wages. Hiring permanent, full-time employees reduces the financial burden on the nursing home by lowering operational expenses, controlling labor costs, and experiencing potential savings by hiring permanent staff. Full-time employees also reduce overtime expenses since employees are more likely to have stable schedules and reduced turnover rates. Better workforce planning also creates a sense of belonging and employee loyalty, increased job satisfaction and improved employee morale.

Dedicated employees also establish relationships with nursing home residents, enhancing patient well-being, reducing medical errors, and improving overall resident satisfaction. Improved resident satisfaction can increase the financial position of a nursing home by positively impacting the home's reputation and attracting potential new consumers.

Excessive charges are not financially sustainable - not only for nursing homes but also for the Medicaid program since Connecticut Medicaid pays for approximately 73% of the residents living in a nursing home. Nationally, Medicaid programs recognize staffing costs as an allowable expense reimbursed to the nursing homes for care of Medicaid members. 32 states plus the District of Columbia recognize direct care costs

within the Medicaid reimbursement[13], and states can place limitations on the percentage of allowable costs recognized in Medicaid reimbursement.

Connecticut may wish to explore "anti-poaching" legislation similar to other states. Multiple states are taking various approaches in an attempt to control rates charged by agencies including Ohio, Iowa, Illinois, New York, and Massachusetts. Each have introduced or passed legislation to varying degrees of success. For example, Illinois amended its Freedom to Work Act in 2022 to remove noncompete and non-solicit clauses that were used by staffing agencies which limited employment opportunities for healthcare workers and limited the ability of healthcare facilities to hire full-time employees if they had recently worked for a staffing agency.

Iowa passed "anti-poaching" legislation in 2022 which prohibits the use of non-compete clauses and contractually requires the staffing agency to pay liquidated damages if a permanent health care worker becomes a permanent employee of the staffing agency. Massachusetts and Minnesota have successfully passed language capping staff agency charges, and Minnesota updates caps annually based on cost report filings submitted to the state.[14] Ohio introduced a bill that would require agencies to provide a schedule of fees and charges that cannot change without 30 days' prior written notice and prohibits health care staffing agency employees from recruiting a health care provider's permanent employee. Ohio also proposed caping payments not higher than 150% of the statewide median hourly wage.

Connecticut should explore options around anti-poaching efforts that do not prevent workers from employment opportunities but instead target the practices of the staffing agencies directly. For example, some states explicitly prohibit agencies from entering into agreements that suppress or eliminate competition for the services by agreeing to not hire each other's employees and fix wages.[15]

Some states are attempting to control for excessive agency staffing charges to keep Medicaid expenditures within a reasonable limit. For example, Indiana's Medicaid program experienced a 121% increase of $108 million in nursing home expenditures between 2019 and 2021 due to excessive agency staffing costs.[16] In response, Indiana passed legislation that requires agencies to file a schedule of charges and notify the state at least 30-days before the agency makes any changes to the schedule. Oregon is exploring a maximum allowable amount for temporary staffing agencies for Medicaid reimbursement.[17].

Besides anti-poaching legislation, Connecticut should explore ways to support competitive wages for full-time healthcare employees. The Economic Policy Institute reports that the median worker in the long-term care industry is paid $15.22 per hour, compared with the median worker in the overall workforce who is paid $20.07 per hour.[18]As previously mentioned, 20% of RNs and LPNs with Connecticut licenses practiced in another states, with the highest number working in New York, Massachusetts, and Florida.[4] According to the Bureau of Labor Statistics (BLS), Connecticut hourly wages for a registered nurse is $45.32 which is higher than the national average of $39.05, but is lower than neighboring states New York and

[13] https://www.macpac.gov/wp-content/uploads/2022/03/State-Policy-Levers-to-Address-Nursing-Facility-Staffing-Issues.pdf
[14] https://nfportal.dhs.state.mn.us/Reports/calculations%20for%20010123.pdf
[15] United States v. Faysal Kalayaf Manahe, et. al., Case No. 2:22-cr-00013-JAW (D. Me. Jan 27, 2022)
[16] https://skillednursingnews.com/2023/06/efforts-to-rein-in-nursing-home-temp-agencies-gain-ground-after-price-gouging-other-troubling-practices/
[17] Note, however, that are potential drawbacks to setting maximum rates. Rate caps can lead to lower wages for workers overall since it limits the amount of compensation and may discourage workers from entering the healthcare sector altogether.
[18] https://www.epi.org/publication/residential-long-term-care-workers/

Massachusetts.[19] Direct competition with neighboring states emphasizes Connecticut's need to support competitive wages to keep full-time licensed professionals working in-state.

Registered Nurse - Bureau of Labor Statistics (May 2022)		
	Hourly wage	**Annual wage**
Connecticut	$45.32	$94,260
New York	$48.14	$100,130
Massachusetts	$50.07	$104,150

For example, nearby New Jersey experienced a similar concern with attracting and retaining healthcare staff and in 2020 required a minimum wage law for long-term facility direct care staff. The New Jersey statue requires healthcare staff to be paid $3 more than the prevailing minimum wage rate. Below are the effective dates and comparison between the statewide minimum wage for all employees and that of long-term healthcare direct staff.

Effective Date	NJ Minimum Wage	NJ Minimum Wage for Long-Term Care Facility Direct Care Staff Members
January 1, 2020	$11	$14 (as of Nov 1, 2020)
January 1, 2021	$12	$15
January 1, 2022	$13	$16
January 1, 2023	$14	$17
January 1, 2024	$15	$18

New York state Medicaid program took a different path towards financially supporting healthcare workers and announced for state fiscal year 2024 it was appropriating $1.3 billion to Medicaid funding for the healthcare worker bonus program.[20] The program uses Medicaid dollars given to eligible employers. The bonus program goal is to increase the New York state healthcare workforce by 20% over the next five-years.[20] Qualified employers are enrolled New York State Medicaid providers and employees can receive different bonus levels based on one of the following criteria:

- At least 20 hours but no more than 30 hours per week are eligible for a bonus of $500.
- At least 30 hours but no more than 35 hours per week are eligible for a bonus of $1,000.
- At least 35 hours per week are eligible for a bonus of $1,500.
- An employee can receive up to a maximum of $3,000 in total bonus payments over two vesting periods.

According to the Brookings Institute, low wages and part-time status keep roughly half of nursing assistants and home health aides living in or near poverty.[21] Many low-wage health care workers are independent and ineligible for benefits such as paid sick leave, and nationally approximately 1 in 6

[19] https://www.bls.gov/oes/current/oes291141.htm#st
[20] https://www.governor.ny.gov/news/governor-hochul-launches-health-care-worker-bonus-program
[21] https://www.brookings.edu/articles/the-heath-care-workforce-needs-higher-wages-and-better-opportunities/

direct-care workers in nursing homes and home health settings are uninsured. Low wages also contribute to "high turnover within these occupations, which is costly for employers. A 2020 survey found nursing assistants had a turnover rate of 27% per year (with a median income of $29,640), significantly higher than the turnover of 16% for registered nurses (with a median income of $73,300)."[21] Since 2015, Connecticut has provided nursing homes with similar staff wage support programs through Medicaid rate increases with those increases passed directly to staff wages and benefits. Connecticut should explore taking the wage program one step further and incorporate ideas from our neighboring states and expand support to not only retain workers but to attract new workers.

2. Workforce Development and Increased Quality

Connecticut is the 7th oldest state in the nation. According to the Connecticut Age Well Collaborative, Connecticut is home to 823,529 people aged 60 or older or 23% of the state's total population.[22] Connecticut demographics will continue to place pressure on the nursing home sector and Connecticut should continue to explore and possibly accelerate efforts to attract full-time, permanent healthcare employees.

Under Governor Lamont's leadership, Connecticut has launched several efforts to retain and recruit workers. The Governor's Workforce Council was established to identity gaps in the labor market and build systems designed to help fill those gaps. Efforts of the Workforce Council include partnerships with educators to focus on aligning curriculum with the needs of Connecticut employers. As previously mentioned, after the COVID-19 pandemic the workforce shifted dramatically, and approximately 3,000 new nurses are needed annually in Connecticut to meet current and future healthcare demand. Yet in-state nursing schools are only graduating an estimated 1,900 new candidates annually.[23] The state's Workforce Development Unit is a state office responsible for developing workforce policy, utilizing data to set a vision for the workforce pipeline, and coordinating the state's workforce systems around a common strategy and set of goals including efforts to help students explore and enter educational programs that are aligned with in-demand careers like healthcare. Continued efforts to develop a sustainable healthcare workforce will increase the pool of eligible workers, increase the rate of nursing home employees, and decrease dependency on staffing agencies.

Not only does reduced dependency on agency staff ease the financial burden on nursing homes but it also increases quality outcomes for nursing home residents. CMS created the Five-Star Quality Rating System to help consumers compare nursing homes more easily. Nursing homes with a quality rating of 5-stars are considered to have above average quality and nursing homes with 1-star are considered to have below average quality. The federal office Assistant Secretary for Planning and Evaluation (ASPE) which advises the Secretary of the Department of Health and Human Services, reports that nursing homes with the lowest quality outcomes typically have the highest levels of temporary contract staff. [24]

While attracting workers into healthcare is important, it is vital to ensure workers are representative of the patients they care for since patient outcomes improve when the care giver is representative of the patient. It is well documented that healthcare outcomes improve when care is provided in a person-centered

[22] http://healthyagingdatareports.org/wp-content/uploads/2021/06/CT-Healthy-Aging-Report-2020_final.pdf

[23] Connecticut Public Radio. March 7, 2023. https://www.ctpublic.org/news/2023-03-07/new-nursing-program-at-ecsu-aims-to-help-combat-ct-nursing-shortage

[24] https://aspe.hhs.gov/sites/default/files/documents/f7c0751d7b3ae7337a3b5d5e3dcc2ae7/nh-reliance-contract-staff-brief.pdf

approach in collaboration with the resident. The Connecticut Commission on Racial Equity in Public Health reported in January 2023 that person-centered care reduces "anxiety and distrust that a patient may have during their health care experience. Further, when this approach is utilized by a nurse of color when treating a patient of color a rapport can be made, thus enabling the patient to enter into a community of familiarity with their health care team(s)." [25]

Efforts to attract permanent healthcare workers should include the creation of a nursing home workforce representative of nursing home residents. Equity improves not only the patient relationship, but addresses economic barriers for workers, creates a statewide representative workforce, and supports health equity initiatives. The National Institutes of Health report that nursing homes with higher rates of people of color were at the "highest risk of COVID-19 deaths". The study identified "Black and Hispanic nursing home residents are more likely than their White peers to reside in nursing homes characterized by inadequate resources, less staffing, higher deficiencies, poorer performance, and worse quality of care. Further, these findings suggest that the nursing home industry continues to operate as a two-tier system based on race/ethnicity and socioeconomic status." [26] According to the Economic Policy Institute, the majority of "residential long-term care workers (80.9%) are women, which includes a disproportionate employment of Black women who make up 22.4% of the long-term care industry when compared with 6.5% of the overall workforce."

Exhibit 4. Long-term care workforce demographics (Economic Policy Institute. 2022.)

Group	Men	White women	Black women	Latinx women	AAPI women	Multiracial or Native American women
All workers	52.6%	29.7%	6.5%	7.4%	3.2%	0.5%
All residential long-term care workers	19.1%	44.9%	22.4%	8.9%	3.8%	1.0%
Nursing homes	16.1%	46.4%	24.4%	8.5%	3.7%	0.9%
Residential care facilities	24.9%	42.0%	18.6%	9.6%	3.8%	1.1%
Direct care workers	11.5%	38.8%	32.7%	11.5%	4.3%	1.2%
Registered nurses	10.6%	59.4%	18.8%	4.1%	6.2%	0.9%
Licensed practical nurses	9.0%	51.%	27.8%	8.0%	3.4%	0.8%
Food service workers	34.3%	35.8%	15.1%	11.4%	2.6%	0.8%
Cleaning and maintenance workers	33.7%	32.0%	16.7%	14.6%	2.%	0.9%

[25] https://wp.cga.ct.gov/creph/wp-content/uploads/2023/02/Full-Report-Attachments.pdf

[26] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8019707/

In conclusion, the primary goal is reduced dependency on agency use which 1) reduces the financial burden on nursing homes, and 2) increases quality of care. There are various strategies and avenues to achieve these goals and Connecticut should explore:

- Develop legislation requiring the publication of fees charged by staffing agencies.
- Develop legislation requiring 30-day notice before an agency can change the rates charged to healthcare facilities.
- Support workforce development efforts that attract workers representative of nursing home residents for improved quality of care outcomes.
- Support education programs that attract students into healthcare professions.
- Pursuant to PA 22-57, the Commissioner of Public Health may adopt policies and procedures to implement the provisions of the Public Act to ensure compliance on the part of the temporary staffing agency. Given the gaps in data and lack of submissions on the part of the staffing agencies, it is recommended that DSS and DPH collaboratively work to ensure staffing agencies are in compliance with the Public Act and to recommend enforcement actions, if necessary, be developed to ensure future compliance or strengthening of the statutory requirements. This may include recommendations to issue civil monetary penalties to staffing agencies that did not comply with the Act and did not submit full and complete data.
- Explore caps within Medicaid reimbursement authority that create a ceiling on the amount Medicaid will reimburse not higher than a percentage of the statewide median yet to be determined.
- Explore wage supports that compete with neighboring states attracting workers to Connecticut. Connecticut has provided wage increase programs in the past through the Medicaid program to support current workers in the nursing home sector. Connecticut should explore options to broaden these programs to also provide incentives to attract workers into the nursing home field similar to programs in New York state and New Jersey.
- Explore anti-poaching legislation that preserves employee right-to-work. Anti-poaching legislation would be targeted towards the staffing agency only similar to Iowa "anti-poaching" legislation passed in 2022 which prohibits the use of non-compete clauses and contractually requires the staffing agencies to pay liquidated damages to nursing homes if a permanent health care worker becomes a permanent employee of the staffing agency.

Department of Health

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TYY:711
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July 5, 2023

Dear Nursing Service Agency,

The Rhode Island Department of Health ("RIDOH") wants to inform nursing service agencies of the recently enacted Public Law 23-102; The new law can be accessed online here: http://webserver.rilin.state.ri.us/PublicLaws/law23/law23102.htm. As a result of this new statute, changes to the licensure requirements and obligations of nursing service agencies will be forthcoming. The RIDOH encourages all nursing service agencies to read the legislation in full, but the following are highlights of the new requirements:

- The licensure fee will increase to $1,000 per year (previously $500).
- The maximum rate for services that nursing service agencies may charge shall be no greater than two hundred percent (200%) of the regional hourly wage of each position using data from the United States Bureau of Labor Statistics (BLS) found online here: https://www.bls.gov/oes/current/oes_ri.htm#29-0000. The maximum fee amount must include all administrative fees, contract fees and other special fees.
    - Using data from the BLS data above, the maximum bill rates for 2023 for the following nursing professionals are:
        - Advance Practice Registered Nurse (APRN): $ 116.64
        - Registered Nurses (RN): $ 82.66
        - Licensed Practical Nurse (LPN): $ 60.40
        - Certified Nursing Assistant (CNA): $ 35.42
        - Medication Aid: $ 38.36
- The nursing service agency must maintain insurance coverage for workers' compensation for all employees.
- If a nursing service agency employee is involved in quality-of-care violation or substandard quality of care violation, such nursing service agency will be investigated by RIDOH. Any violation of Rhode Island State Law and Regulations by a nursing service agency employee will be tracked and made public record.
- The nursing service agency must submit an annual statistical report to the RIDOH by January 31st of each year. The first report will be due January 31, 2024.

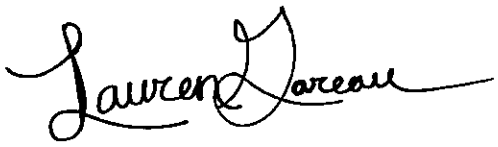
The RIDOH will be amending the Nursing Service Agency regulations (216-RICR-40-10-10) to include these statutory changes, among other updates. The RIDOH encourages all licensees to be on the lookout for these regulatory changes and will be inviting the public to comment on the regulatory amendments. Individuals can subscribe to regulatory alerts on the Rhode Island Secreatry of State website here: https://rules.sos.ri.gov/subscriptions/subscribe/all

Additionally, the RIDOH would like to remind nursing service agencies of the following, current requirements that will also be confirmed in the upcoming licensure renewal cycle:

- That the nursing service agency has attained or maintained appropriate certification from an accreditation agency in accordance with Section 10.3(D) of the Nursing Service Agency regulations (216-RICR-40-10-10).
- The nursing service agencies mechanism to resolve client complaints or other difficulties in accordance with Section 10.9.1(A)(4) of the Nursing Service Agency regulations (216-RICR-40-10-10).
- The process for annual employee evaluation in accordance with Section 10.9.3(A)(1) of the Nursing Service Agency regulations (216-RICR-40-10-10).
- The in-service educational program for all direct patient care personnel and periodic programs for continued skill improvements in accordance with Section 10.9.3(A)(4) of the Nursing Service Agency regulations (216-RICR-40-10-10).
- Documentation for completion of in-service educational program and quarterly continued skill improvements for all current direct patient care personnel in accordance with 10.9.4(A)(2) of the Nursing Service Agency regulations (216-RICR-40-10-10).

If you have any further questions, please feel free to reach out to Lauren Gareau at 401-222-2566 or email at lauren.gareau@health.ri.gov.

Sincerely,



Lauren Gareau

Health Program Administrator