Public Health Committee
JOINT FAVORABLE REPORT

Bill No.: SB-1030
Title: AN ACT CONCERNING LONG-TERM CARE FACILITIES.
Vote Date: 3/26/2021
Vote Action: Joint Favorable Substitute
PH Date: 3/17/2021
File No.: 457

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SPONSORS OF BILL:

Public Health Committee

REASONS FOR BILL:

This bill makes various changes related to long-term care facilities and the delivery of long-term care services. Principally, it:

- requires long-term care facilities to employ a full-time infection and prevention control specialist (§ 1);
- requires a facility's administrative head to participate in developing the local emergency operations plan of the municipality where the facility is located, which plan is required under the Intrastate Mutual Aid Compact (§ 2);
- requires, within six months after the governor terminates a declared public health emergency, (a) DPH to maintain at least a three-month supply of personal protective equipment (PPE) for long-term care facilities and (b) facilities' administrative heads to ensure they acquire the supply from DPH and maintain it for their staff (§ 3);
- requires a facility's administrative head to ensure that there is at least one staff member during each shift who is licensed and certified to start an intravenous line (§ 4);
- generally requires a facility's infection prevention and control committee to meet at least monthly, and during an infectious disease outbreak, daily (§ 5);
- requires every facility's administrator and supervisor, by January 1, 2022, to complete the Nursing Home Infection Preventionist Training Course produced by the CDC, in collaboration with the Centers for Medicare and Medicaid Services (§ 6);
- requires facilities to test staff and residents for an infectious disease during an outbreak at an appropriate frequency determined by DPH (§ 7);

- requires a facility's administrative head, by January 1, 2022, to facilitate the establishment of a family council to encourage and support open communication between the facility and residents' families and friends (§ 8);
- requires facilities, by January 1, 2022, to take certain actions to ensure residents have regular opportunities for in-person and virtual visitation with family members and friends and that their social and emotional needs are met (§ 9);
- requires DPH, by January 1, 2022, to establish an essential caregiver program for long term care facilities to implement (§ 10);
- requires the state's Public Health Preparedness Advisory Committee, by October 1, 2021, to amend the plan for emergency responses to public health emergencies to include responses in relation to long-term care facilities and providers of community-based services to facility residents (§ 11);
- starting July 1, 2021, requires facilities to allow residents to use communication devices in their rooms (e.g., phones and tablets) to remain connected with family and friends and facilitate the participation of their family caregivers in their care team (§ 12);
- requires DPH, by January 1, 2022, to modify minimum nursing home daily staffing levels to require at least 4.10 hours of direct care per resident, including 3.75 hours of care by a registered nurse, 0.54 hours of care by a licensed practical nurse, and 2.81 hours of care by a certified nurse's assistant (§ 13);
- allows a non-verbal nursing home resident, or his or her resident representative, to install an electronic monitoring device in the resident's room or private living unit under certain conditions (§ 14).

Under the bill, a long-term care facility includes a nursing home, assisted living facility, residential care home, home health agency, chronic disease hospital, hospice, and intermediate care facility for individuals with intellectual disability, except those operated by a DDS program subject to background checks under existing law.

RESPONSE FROM ADMINISTRATION/AGENCY:

The Connecticut Department of Public Health:

The Department of Public Health (DPH) offers information regarding this bill. The DPH served on the Nursing Home and Assisted Living Oversight Working Group, which was jointly led by members of the General Assembly and representatives of the Department of Public Health, the Department of Social Services, and the Office of Policy and Management.

As stated in the testimony, Section 1 defines a long-term care facility as a nursing home (NH), residential care home (RCH), home health agency (HHA), assisted living services agency (ALSA), intermediate care facility for individuals with intellectual disabilities (ICF/IID), chronic disease hospital, or hospice agency for the purposes of Sections 2-12 of the bill."

Since ICF/IID facilities are licensed by the Department of Developmental Services (DDS), DPH would defer to DDS for comments regarding such facilities. Section 2 requires the administrative head of each long-term care facility to participate in the development of the emergency plan of operations of the Intrastate Mutual Aid Compact pursuant to C.G.S. Section 28-22a. The Department stated its support of the concept outlined in this section and "requests further discussion with the proponents of the bill and the Department of Emergency

Services and Public Protection to determine the best approach for long-term care facilities to be involved in emergency response planning." Additionally, in the testimony, DPH provides recommendations to Section 3, specifically regarding personal protective equipment (PPE): " The Department agrees that a comprehensive strategy needs to be in place during extraordinary circumstances such as the COVID-19 pandemic. However, the Department does not think that legislation is needed; often such a statute may diminish our ability to be flexible in responding to an emergency that is ever evolving." DPH supports Sections 4-5.

The Department recommends language for Section 6, "that would require a nursing home administrator to have a minimum of four contact hours of continuing education on “infection control and the prevention of infections associated with antimicrobial use, including antimicrobial resistant infections” within subsection (b) of C.G.S. Section 19a-515. These CEU’s would allow the administrator to continually train on the best practices for infection prevention and control.

For Section 7, DPH recommends not moving forward with this section of the bill because the Department already provides guidance to long-term care facilities that reflects the recommendations supported by the CDC. DPH supports Sections 8-11. The Department respectfully requests that, within Section 12, the timeline to develop policies regarding the use of communication devices be extended until December 2021.

Lastly, regarding Section 13, the DPH recommends "all facilities have adequate staffing with the appropriate competencies and skill sets to provide nursing and related services, based on a facility assessment, to assure resident safety and attain or maintain the highest practicable level of physical, mental, and psychosocial well-being of each resident."

NATURE AND SOURCES OF SUPPORT:

AARP Connecticut:
AARP Connecticut offers strong support for this bill. AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. The organization has a membership of 38 million nationwide and nearly 600,000 in Connecticut. As stated in the testimony, "S.B. 1030 addresses several key issues related to nursing homes that emerged or were exposed during the pandemic, including: deficiencies in infection control, a lack of adequate emergency planning, social isolation and restricted visitation, and staffing levels." AARP Connecticut also includes recommendations to the bill.

Sharia Ann Ashmeade, CNA:
Sharia Ann Ashmeade, CNA at Regal Care of New Haven, offers support for this bill. Ms. Ashmeade has worked as a healthcare worker at Regal Care for seven years. She believes it is important to pass this legislation as it will bring much needed improvements to the Nursing Home industry so that residents can receive proper care. As stated in her testimony, "[e]ven though I love my job, what frustrates me is that we work in an environment where risking our lives to do something we love is often unappreciated… With proper staffing we will be able to spend more time caring for each resident according to their need. It will help to offer our resident with better quality of life." Ms. Ashmeade offers two recommendations to the proposed legislation. As stated in the testimony, twelve-hour shifts will not solve staffing problems. She recommends not changing the shifts to twelve hours as it "will demoralize the

workforce even more." Additionally, she recommends changing penalties for not giving access to PPEs to workers. She writes, "[w]e need strong penalties so that when management withholds employee access there are repercussions."

Rob Baril, President, SEIU District 1199NE:

Rob Baril, President of SEIU District 1199NE, offers support to the proposed bill with recommendations.

The recommendations are as follows:

- Section 1: Add language requiring the Infection Prevention and Control Specialist to file Infection Control reports monthly to the Department of Public Health.
- Section (b)(1): Add language to say, “and other languages where there is a significant population of workers who speak that language.”
- Section 3:
    - The length of time that should be covered should be changed to six months
    - Add worker access language as well as language that would establish penalties for administrators that withhold access to PPE from workers.
- Section 4: Add a subsection requiring that the Nursing Home must pay for the worker to get certified in this, and that it must be an allowable cost under Medicaid.
- Section 5:
    - Define who makes up the Committee and make sure that there is direct care worker, non-direct care worker, management, non-management and Union input (at the homes that are Union) on the Committee.
    - Add language that would require Committee notes to be kept for a specific amount of time at the home or filed with the State and made a part of the survey notes.
- Section 7: Add “Once a month, or more frequently as determined by DPH.” to line 84.
- Section 8: Add Family Council reports that are either kept for a specific period of time on the premises at the Home or filed with the Ombudsman’s Office.
- Section 9:
    - Add a subsection making this training an allowable cost under Medicaid
- Section 11: Include the Union on this Committee
- Section 13:
    - Change staffing levels to equal 4.1. RN’s should be .54, LPN’s should be .75, CNA’s stay at 2.81
    - Change “lower” to “raise” in line 168
    - 1 Social Worker for 75 residents
    - 1 Recreational Aide for 25 residents
- Section 13(C): District 1199 opposes this language in its entirety.

Connecticut Legal Rights Project, Inc.:

The Connecticut Legal Rights Project (CLRP), a statewide non-profit agency that provides legal services to low income adults with serious mental health conditions, offers support for this bill with a recommendation. CLRP believes this legislation is necessary because the pandemic has had a devasting impact on the residents of long-term care facilities in Connecticut. CLRP recommends adding that “the state should ensure all LTC residents receive counseling on their options to receive services in the community and support those who want to return to the community.”

Tracy Nicolo, CNA:
Tracy Nicolo, CAN at Foxhill Center, offers support for the proposed bill with recommendations. Ms. Nicolo states, "[w]hile I do love my job, it can be very frustrating dealing with low staffing, a lack of PPE, and poor training." Ms. Nicolo expresses that there is a direct connection between staffing levels and the quality of care residents receive. Additionally, another stressor is "the inadequate supply of PPE." As mentioned, "My coworkers and I were told to reuse PPE that was intended for single use, we had PPE hidden from us, or locked away. All the while we were told we must risk our lives and our families' lives by coming to work during a pandemic." There has also not been enough training on infection control, especially training provide in a language other than English. Ms. Nicolo respectfully request the bill is passed with these issues in mind.

National Association of Social Workers, Connecticut Chapter (NASW/CT):
The Association of Social Workers, Connecticut chapter, representing over 2,300 members, supports S.B. 1030. As stated in the testimony, "Section 13 (b) (2) is of particular importance as it requires the Commissioner of Public Health to determine a bed to social worker ratio that is less than the current ratio of 120 beds to 1 full-time social worker. This ratio, which has been in existence for over 30 years, has no resemblance to a reasonable ratio." Outlined in the testimony, social workers have a sole professional role in the home responsible for the psycho-social needs of residents.

The Association recognizes and thanks the Long-Term Care Oversight Group for their recommendation to reduce the current bed to worker ratio. NASW/CT looks forward to working with the Commissioner of Public Health in determining a social worker to beds ratio that is based on best practices. NASW/CT also offers support for Section 8 of this bill that requires each facility to have a family council. This will greatly assist families in organizationally addressing concerns regarding care and policies and will offer mutual support to families. Lastly, NASW/CT supports Section 9 that addresses making sure the resident care plan meets the social and emotional needs of individual residents.

NATURE AND SOURCES OF OPPOSITION:

Rhonda Boisvert, President, Connecticut Association of Residential Care Homes:
Rhonda Boisvert, the President of the Connecticut Association of Residential Care Homes, offers concerns to the passage of this legislation. Connecticut Association of Residential Care Homes is the trade organization for the approximately 100 residential care homes in the state. As stated in the testimony, "Senate Bill 1030 tries to take a one size fits all approach to long-term care. By doing so, the requirements to residential care homes would frankly change the current residential care home model. We are also concerned that such sweeping legislation would be proposed coming from the Nursing Home and Assisted Living Workgroup without our inclusion as an Association or individual homes."
The concerns of the Association per Section are as follow:

- Section 3 requires at least a three-month supply of personal protective equipment for its staff. This would be cost prohibitive for homes unless the Department of Public Health was supplying such PPE at no cost to the homes.
- Section 4 requires a "certified or licensed" staff member to start an intravenous line. Most of the Association's homes have no such licensed staff and hiring any staff is a problem.

- Section 5 goes on to require a full-time infection prevention and control committee. The Association believes that requiring a non-medical model with non-licensed staff to run a fulltime infection prevention committee without training would be inappropriate.

- Section 6 requires Nursing Home Infection Preventionist Training. The CDC describes that as a "course [which] is designed for individuals responsible for infection prevention and control (IPC) programs in nursing homes." As the Association has noted, residential care homes are a very different model serving different types of residents than nursing homes.
- Section 7 requires mass testing available during a Public Health Emergency at each long-term care facility. The Association required outside agencies to come test staff so any such requirement on homes will require outside resources to be able to effectively and appropriately test residents and staff.
- Section 8 requires the establishment of family councils inside each residential care home. The Association opposes any such blanket requirement especially as participation of residents' families or conservators can be a challenge and vary depending on the resident and home.
- Section 9 presumes that every resident in a residential care home has a "resident care plan." This is not always the case. Many of our residents have been living in their home for over a decade plus and are highly independent. Putting additional requirements on staff that average wages between $13-$15 is problematic. The Association continues to advocate for a raise for employees who worked on the front lines of the pandemic.
- Section 10 requires each long-term care facility, including residential care homes, to establish an essential caregiver program for implementation. The nature of living in a residential care home means there is likely no caregiver and certainly not someone "critical" to the daily care and well-being of the resident.
- Section 12 is less of a concern for the industry as residents in residential care homes are free to have their own cell-phones and other devices. The Association would, however, caution that not every residential care home has access to WiFi either due to the age of the home or other factors such as cost. Any requirements for technology should prioritize funding and installation of WiFi in residential care homes that lack Internet connectivity.

Connecticut Association of Health Care Facilities and Connecticut Assisted Living Association:

Matt Barrett, the President and CEO of the Connecticut Association of Health Care Facilities (CAHCF) and Connecticut Assisted Living Association (CCAL) offers comments of concern to the passing of this bill. As stated in the testimony, "CAHCF/CCAL agrees in elevating that status of Infection Preventionists (IPs) in our Connecticut nursing homes. Effective infection prevention and control programs can decrease infection rates and health care acquired infections, improve attention to hand hygiene and transmission-based precautions, improve employee health, and reduce hospitalizations and adverse events among nursing home residents."

CAHCF/CCAL recommends the following for Section 1:

- The amount of time required for an IP be adjusted based on each facility's bed count, demographics of the facility's surrounding area, individual factors contributing to infection control risk levels, and flexibility for smaller facilities.

- A phased-in requirement to give nursing homes time to recruit and train the new IPs.
- that infection prevention training requirements have the flexibility to be met by training materials prepared by CAHCF/CCAL's national affiliate, the American Health Care Association (AHCA), include funds to cover any training costs, and that the intent of training language be clarified to mean the training applies to the administrator and RN supervisor.

CAHCF/CCAL recommends the following for Section 3:

- That the legislation provides the option for the PPE to be earmarked for a specific nursing home, but actually housed in a central storage site managed by the state and accessed as needed by the nursing homes.
- The quarterly N-95 fit testing be available for new employees and that an annual fit testing be the standard for existing employees according to OSHA standards.

CAHCF/CCAL recommends the following for Section 4:

- that the language be modified to include IV starts by contracted staff, including a 24-hour remote coverage by the external contracted service provider, in addition to staff employed by the nursing homes.

CAHCF/CCAL recommends the following for Section 8:

- that this provision includes a cross reference to federal rules concerning the establishment of family councils to assure consistency and compliance with federal requirements.

CAHCF/CCAL recommends the following for Section 13:

- CAHCF/CCAL supports the effort to ensure adequate staffing at all nursing homes and to compensate all nursing home caregivers and employees at a level that recognizes their value. However, they favor a focus on elevating the status and importance of long-term care staff through recruitment and retention strategies and providing long underfunded nursing homes with the financial resources needed to address these staffing issues.

CAHCF and CCAL do not support the recommendation to establish a minimum percentage of reimbursement to be spent on staffing without further study of the issue in the context of planned shifts in reimbursement structure to an acuity-based system and more thorough consideration of potential impacts of such a requirement. Finally, nursing homes should be given the flexibility on where to direct the percentage of staffing resources to RNs, LPNs and CNAs to address the specific care needs of the individual nursing homes.

Mary Hagerty, Owner, Four Corners Rest Home Inc.:

Mary Hagerty the Owner/Administrator of Rest Four Corners Rest Home, Inc. in Milford, CT offers concern for the passage of this legislation. Four Corners Rest Home, Inc. is an 18-bed Residential Care Home. Ms. Hagerty urges that this bill is a "one-size fits all" and to remove resident care homes from the legislation. As stated in the testimony, "Residential Care Homes are not nursing facilities, but more of a managed residential community with extra services that serve both elderly people and younger people with physical or mental disabilities and provide some help with personal care that is not as extensive as assisted living.

If more services are requested and demanded for residential care facilities, then daily rate reimbursements must be modified. There has not been an increase in daily rates, or a cost-of-living raise for 7 to 12 years in Connecticut for Residential Care Homes." The requirements of Sections 2 through 10 of this legislation are "not reasonable for residential care homes as a home and community-based model. There are clear differences of residential care homes with nursing homes, assisted living, home care and other models of long-term care."

Tracy Wodatch, President and CEO, The Connecticut Association for Healthcare at Home:

Tracy Wodatch, President and CEO of the Connecticut Association for Healthcare at Home opposes the passage of this bill. As stated in the testimony, the Association is the united voice for the licensed, skilled home health and hospice agencies. She believes that the intent of this bill is to address infection control/prevention staffing, programs and processes; ongoing training thereof; PPE supplies and the electronic monitoring of a resident within a skilled nursing facility, not a home health or a hospice agency.

As stated in the testimony, "By both federal and state regulations, our home health and hospice agencies are already required to include in our emergency preparedness plans, infection control and prevention policies and procedures as well as a Quality Assurance/Performance Improvement (QAPI) program. Each agency must have a QAPI committee that meets regularly and addresses any potential adverse events, emergency preparedness needs and ongoing educational needs of staff." Overall, the Connecticut Association for Healthcare at Home requests that Home Health Agencies and Hospice Agencies be removed from this bill.

Reported by: Kassandra Fruin **Date: April 14, 2021**