

## Nursing Home and Assisted Living Oversight Working Group (NHALOWG)

### Staffing Levels Subcommittee

#### Meeting Summary

Monday, December 28, 2020, 3:00 PM via Zoom

#### 1. Opening Remarks

- Rep. Cook, Co-Chair, convened the meeting. She asked for a motion to approve the meeting summary from December 21<sup>st</sup>, which was duly made, seconded, and unanimously approved.

#### 2. Discuss OLR reports describing Connecticut's law on nursing home transparency and on paid family and medical leave.

- Kate McEvoy, Co-Chair, reviewed the OLR report regarding nursing home transparency. She highlighted that nursing homes are obligated to submit annual cost reports regarding related parties that conduct business with them: parties that receive \$50,000 or more from the home in goods, fees or services. These reports are publicly available, are reviewed by DSS, and have formed the basis of rate-setting. (This will no longer be the case starting on July 1, 2021, when the acuity-based methodology goes into effect, and the Minimum Data Sets (MDS) will be used to determine rates.) The OLR report also describes the composition and function of the nursing home financial advisory committee.
- Jean Aranha of CT Legal Services pointed out that there is not currently transparency with the Certificate of Need process, and the New Jersey legislation on transparency addresses that. She also expressed an interest in having an ongoing task force to continue the work of NHALOWG. Rep. Cook responded that legislators are discussing continuing this work, either informally or by putting it into statute. Liz Stern offered to send the NJ legislation to the subcommittee administrator for forwarding to the group.
- Kate McEvoy summarized the OLR issue brief on CT Paid Family and Medical Leave, which will be going into effect in January 2022. It will provide up to 12 weeks paid leave over 12 months, in most circumstances. Rep. Hughes wondered if there was any way to begin providing paid leave sooner, as workers are currently dealing with the effects of COVID. Ms. McEvoy explained that there had been provisions for paid leave in the Families First aid package, although it did not apply to all employers, and some employees have already exhausted that benefit. The extent of time off that can be required for quarantining or for caring for sick family members was also noted. Jean Aranha asked whether part-time employees would be covered, and Ms. McEvoy said that more information was needed. Zina Bennett, CNA, pointed out that due to the opt-out provisions, none of the staff at her facility was able to access the 80 hours of federal

paid leave, due to a concern that there would not be enough staff in the building if the paid leave was granted. Rep. Hughes echoed that the facility she works in has been challenged tremendously by staffing shortages and quarantining has had a significant impact on both staff and residents, highlighting the need to invest in staff. Lindsay Jesshop of ADS added that other communicable illnesses need to be considered in long-term planning.

### 3. Continued discussion of the five main topics for consideration:

- Ensure that facilities adopt appropriate staffing policies to minimize spread of infectious disease (SR 17)
  - Increase minimum required staffing ratios; support increases in workers' pay and benefits (LR 14)
  - Ensure that staff have access to guaranteed sick time under state's existing paid sick leave regulations (LR 15)
  - Workforce retention and recruitment
  - Increase transparency and identify staffing necessary for improved communication
- Kate McEvoy shifted the focus to the recommendations the group would work on crafting. She proposed creating a set of straw man recommendations for the subcommittee to respond to for next week's meeting. First, she shared that her sense of the group is that the subcommittee has interest in updating minimum staffing levels. Next, regarding paid sick leave, she asked if the group was interested in looking at interim state funding in the event of no additional federal funding for 2021. She added that the New Jersey legislation would be helpful for the group's discussion.
  - Zina Bennett shared that the staffing level for the 11-7 shift at her facility has recently been 3 CNAs to 60 residents. Mag Morelli of Leading Age suggested the possibility of a type of a "circuit breaker" to access a pool of sick leave funds to accommodate the extraordinary amount of sick time that is often needed due to COVID. Dr. Stephanie Paulmeno echoed Ms. Bennett's comments about staffing, adding that residents continue to have care needs over the course of 24 hours, and that the third shift needs to be more fully staffed. She also shared that nurses who test positive for COVID are working on COVID positive floors, which she believes is an unjust practice. In addition, she said that for workers' compensation, there should be a presumption of having contracted COVID at the workplace. Rep. Cook highlighted the importance of creating plans for catastrophic coverage, so that workers can be taken care of and that facilities do not go bankrupt in the process. Mag Morelli said that the Governor had provided some temporary workers' compensation protections that perhaps could be built upon, and Corey Geisman of 1199, said that he believed that there should be something stronger and long-term put in to place, including the presumption of having contracted COVID at work. Executive Order 7JJJ created an appeals process, but workers'

experience was that the process often stretched over weeks and months, which did not meet their immediate needs. Dr. Paulmeno echoed Mr. Geisman's comments, adding that some workers were not allowed to submit claims. Mr. Geisman then shared that many workers are not aware they have a right to appeal, and that some facilities are questioning whether workers contracted COVID at work. Dr. Paulmeno expressed concern for workers who might be COVID positive, but asymptomatic. Ms. McEvoy pointed out that weekly testing of nursing home staff has been occurring for quite some time. Ms. Morelli cautioned that OSHA is under federal jurisdiction, and therefore recommendations regarding OSHA should not be part of this subcommittee's work. Rep. Hughes and Ms. Bennett emphasized the need for a presumption of eligibility for workers' compensation. Rep. Cook highlighted the importance of community testing, and clarification was made that nursing homes' testing protocols factor in the current level of community spread.

- Kate McEvoy reviewed the New Jersey legislation, including the structuring of reimbursement rates, increased minimum wage for CNAs, a requirement that 90% of reimbursement be spent on direct care, establishing a Long Term Care Task Force, establishing a LTC emergency operations center, improved staffing ratios and minimization of social isolation. She added that there was also additional legislation around COVID recovery facilities, reporting requirements, certified electronic health records and developing outbreak response plans (including how to secure supplemental staff.)
- Mag Morelli shared that DPH already requires an emergency staffing plan. She also wondered what types of staff New Jersey includes in the definition of "direct care." Rep. Hughes stated that she agrees with the components of the New Jersey legislation, and added that Sen. Osten is proposing a permanent pandemic response office. Dr. Paulmeno added her support for increased pay for CNAs. She added that while nurses can assist with the work of CNAs in theory, they cannot leave their stations and neglect their own nurse-specific duties. Liz Stern talked about the importance of Essential Caregivers and how they work in tandem with nurses and CNAs. Jean Aranha agreed with Ms. Stern about the importance of Essential Caregivers, but said that their presence should not release a nursing home from providing adequate staff.
- Kate McEvoy confirmed with the subcommittee that the co-chairs would create a straw man document of draft proposals for the group to use as a starting point for discussion next week. Matt Barrett of CAHCF/CCAL shared some of his concerns, including that language should include the caveat of "within available appropriations." He elaborated by saying that some facilities might have to spend more to meet certain staffing percentages or have to cut administrative staff. Mr. Barrett also expressed concern about the impact wage increases can have, creating "wage compression" and affecting the number of jobs overall. Rep. Cook agreed with the concern about overwhelming facilities with recommendations, but added that the subcommittee's charge is to

develop recommendations, not to craft the legislation or quantify the fiscal impact. Mr. Barrett said it would be hard for him to support recommendations that would require increased financial resources, as his members do not have additional resources right now. Rep. Cook said that any legislation would go through the regular committee process. Rep. Hughes said that with public attention on this issue, the time was right to address long-standing problems and to invest in change. Ms. Bennett talked about the rigors of CNAs' work, and that it deserves better compensation. Mr. Barrett said that he supports a living wage, and he is simply pointing out it will require increased funding. Dr. Paulmeno affirmed that CNAs and other essential staff are not paid commensurate with their value. Rep. Cook added that increased funding will need to come from both the state and federal government, and that the federal delegation will need to be part of this discussion at some point. She reinforced that the goal of the work is to improve the lives of residents, the staff and their families.

- Rep. Cook adjourned the meeting.

4. Next Meeting – Monday, January 4, 3:00 PM via Zoom