



**Testimony of Mag Morelli, President of LeadingAge Connecticut
To the Appropriations, Human Services and Public Health Committees'
Listening Session Regarding Potential Legislative Proposals on
Covid-19 Related Public Health Issues
September 2, 2020**

Good morning to the Chairs, Vice-Chairs, Ranking Members and Members of the Committees. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a statewide membership organization representing not-for-profit provider organizations serving older adults across the continuum of aging services, including not-for-profit skilled nursing facilities, residential care homes, home health care agencies, hospice agencies, adult day centers, assisted living communities, senior housing and life plan communities. On behalf of LeadingAge Connecticut I am pleased to provide testimony today on the potential legislative proposals on Covid-19 related public health issues.

Thank you for holding this listening session and allowing me to present. I was fortunate to speak at a previous informational hearing on the nursing home experience with Covid-19 and I have attached a link to that previous testimony for your information. That testimony includes a review of the timeline of events as they relate to the pandemic and provides context to where we were today. We believe that today we have a better understanding of the basics of the virus and the resources and actions needed to combat it: *enhanced* infection control, source control, testing, cohorting, and PPE to protect both residents and staff.

We are also fortunate to now have the interim report from Mathematica on the Covid-19 outbreak and response in our state's long-term care facilities and look forward to the final report this month which will provide additional guidance for us all.

While our previous testimony has been focused on the long-term care facilities' response, there are many other types of providers who serve the needs of our older adults. We want to be sure that while we are addressing the needs of the nursing home sector, that we also address the needs of our home and community-based providers, as well as our senior housing providers who are struggling to provide a safe environment for their older residents. Therefore we have included those providers in our testimony today.

Since the beginning of the public health emergency, our members have been working to provide for the health and safety of the older adults in their care and the emergency actions taken by the State have been extremely helpful to this effort. In fact, our ability to manage through the early stages of the crisis relied on these emergency actions. They permitted us to swiftly enact strategies such as cohorting of nursing home residents, arranging for telehealth visits with seniors, implementing virtual check-ins and meal delivery for adult day center clients, and standing up Covid-19 recovery centers. We must continue to remain vigilant and maintain these emergency strategies because the pandemic is not over.

Financial Needs of Nursing Homes

Financial assistance to providers is our priority ask at this time. In the nursing home sector, the most pressing issue is revenue loss which is mainly caused by a statewide reduction in nursing home census due to the effects of the pandemic. When the Covid-19 surge first began, elective surgeries were cancelled

and medical treatment was postponed, which led to fewer admissions to nursing homes for short term rehabilitation. In addition, the nature of the virus requires new admissions to be placed on quarantine for fourteen days, thus requiring nursing homes to use semi-private rooms for single occupancy quarantining. Even as elective surgeries begin to return, the need to quarantine new admissions remains in place and prevents a nursing home with semi-private rooms from rebuilding to full census. The resulting lost revenue, and especially the lost Medicare revenue, is debilitating to the sector. Census recovery will be slow and possibly thwarted again if we experience another surge of the virus. **This financial situation must be remedied through a state and federal response or we will lose good nursing home providers.**

We were fortunate that DSS responded quickly with a brief nursing home rate increase to enhance cash flow and then used the federal Coronavirus Relief Funds (CRF) to provide grants to nursing homes for April, May and June. The federal government also stepped forward with immediate financial assistance for the nursing homes sector through three Medicare tranches, the Paycheck Protection Program, and Medicare payment advances. The advantage of the first three federal tranche payments is that they can be applied toward lost revenue whereas the state grants must be applied only to Covid-19 related expense. Unfortunately, the latest federal tranche payment cannot be applied toward lost revenue, and it is revenue loss that is currently of grave concern. Again, we look to both the state and federal government for assistance.

Financial Needs of Home and Community Based Providers of Aging Services

While we have discussed the nursing home sector, the other providers of aging services are also burdened by the increased costs associated with Covid-19. Many, in fact, are struggling to reopen or survive. For example, the adult day centers have developed reopening guidance which includes limiting attendance, a surveillance testing strategy and the use of appropriate personal protective equipment (PPE). The limited attendance reduces revenue opportunities while the testing and PPE expenses are simultaneously raising the cost of providing the service. Adult day centers are not alone. Other home and community-based providers are facing similar struggles and there is an immediate need to provide them with financial relief so as to get them through this pandemic. DSS is currently in the process of distributing CRF grant funding to the home and community-based providers of Medicaid services, and the federal government has recently set up a program to do the same. **We must carefully monitor this situation to be sure that this funding is enough to preserve this network of providers and if it is not, the state must step in with additional financial relief.**

Short-Term and Long-Term Capital Needs of the Nursing Homes

If the expectation is that nursing homes will care in place for Covid-19 positive residents during the next surge of the virus, as was expected in the initial surge, then we must address it and prepare for it. Physical plant changes are one potential need, not only to handle another surge, but also to prepare for the gradual reopening of the homes during this pandemic. Nursing home are on the front lines and many are in need of resources to facilitate Covid-19 related physical plant changes. **Therefore, we propose that the State consider initiating a grant program which would be used by nursing homes for immediate construction, renovation and equipment purchases to implement Covid-19 infection control measures.** Such measures could include modifications to semi-private rooms to allow for quarantine isolation within them, modifications to dining areas and related furniture purchases to ensure social distancing, acquisition of automated screening technology, creation of storage areas for stockpiled PPE supplies, modifications to available space for cohorting of residents, and creation of efficient staff testing areas. As we strive to open up safe visitation, we may also want to consider the creation of visitor screening areas, modified entryways and visitor friendly structures, both for inside and outside visitation.

As we look at nursing homes as a vital segment of the health care field, we would also encourage the legislature to look to a long term bond financing or direct lending program that would provide low interest or no interest state loans to be used for major, non-cosmetic infrastructure projects such as roofs, windows and HVAC systems. Most of the nursing homes are older and in vital need of infrastructure improvements. Many nursing homes find it difficult to secure the lending that will allow them to pursue these capital improvements. A state directed and guaranteed program would offer the capital resources that are needed and provide the state the peace of mind of knowing that the infrastructure needs are being met. We are happy to speak more to this idea if there is interest in pursuing it.

Assisted Living in HUD Federally Assisted Senior Housing

We also have several HUD federally assisted senior housing sites within our membership. Seven such sites throughout the state also offer a limited number of units where state funded assisted living services are provided to tenants. The way our state's assisted living is structured, these HUD senior housing sites are classified as "managed residential communities," which is what we classify the actual building structure of an assisted living community. The assisted living services are provided separately through an "assisted living service agency" that is licensed through the Department of Public Health. During this pandemic, the managed residential community as well as the assisted living service agency have been required to conduct testing, and this has placed the seven HUD housing sites in the very difficult position of needing to implement and enforce testing requirements on a tenant population that they have little control over as landlords. **We ask that the State address this issue by statutorily decoupling the classification as mentioned above, and relieve these housing sites of this testing obligation.**

Aging Services Workforce

We must address the impact that this pandemic has had on our aging services workforce and the positive impact that members of our workforce have had on the lives of our residents and those who are served in the community. The value of the aging services workforce has never been so evident. We must value their work on an ongoing basis and ensure that we have the resources to provide both the compensation they deserve and the level of staffing resources and community-based services that are desired.

Staffing Resources

Nursing home staffing levels were discussed in the Mathematica interim report. The report suggests that homes that staffed at higher levels may have been able to more effectively prevent or to control outbreaks of the virus. While this is just one factor identified in the interim report and we have yet to see the final report, we understand that there may be a desire to look at raising the minimum staffing levels. *I want to emphasize that we do believe that the current standard of staffing to meet the needs of residents is the correct approach.* However, we also know that the Legislature may be asked to raise the current minimum staffing levels set forth in our state regulations. **Within this context, we respectfully ask that if the Legislature is to move in a direction of increasing minimum staffing levels and providing additional funding to pay for that increased staffing, that you also include additional funding for those homes that are currently staffing at or above the new minimum level.**

Nursing homes that are currently staffing at a higher level are often doing so at a cost above and well beyond what they are reimbursed by their Medicaid rate. We know this because most of the homes in the LeadingAge membership that maintain a high level of staffing are also receiving Medicaid rates that have some of the largest deltas between what they are actually paid through the Medicaid rate and what they are actually spending in allowable cost. (Direct care is an allowable cost.) For instance, we have a nursing home member that exclusively cares for persons living with dementia. They have a very high staffing level according to Nursing Home Compare. Looking to the information posted on the DSS website, their Medicaid rate is \$43.08 less than their calculated rate based on the statutory rate formula of

allowable costs. This equates to an annual loss to the nursing home of \$1.2 million in the Medicaid portion of their payor mix. They are not alone in this situation. **Therefore, in fairness and in recognition of the desire to incentivize higher staffing levels, nursing homes such as these that are currently staffing at higher levels at their own expense, must receive a share of any additional funding reserved for enhancing staffing levels.** The funding should be added to their Medicaid rate in recognition of their existing staffing levels without a requirement that they add additional staff.

Staffing Levels and Acuity Rate System

We also encourage the State to consider the Mathematica report when establishing the final acuity-based rate system for nursing homes. While the conventional wisdom has been that Medicaid should provide a higher rate in such a system for higher acuity rated residents because they demand higher staffing levels, this recent experience demonstrates the value of staffing hours when caring for lower acuity, long-term care residents. Recognizing this, it stands to reason that we should not look to reduce the rates of those providing high quality, highly staffed long-term care to lower acuity residents for the purpose of shifting those dollars to higher Medicaid rates for the higher acuity residents. Yet this is exactly what will happen in the budget neutral transition to an acuity-based rate system that is planned for Connecticut. **Instead, we need to invest additional dollars into the system to establish the acuity-based system with the increased level of funding that is needed to provide adequate and appropriate staffing for all levels of acuity.** In a sense, we need to “true-up” the historically underfunded reimbursement system as we move to an acuity-based system so that we do not disadvantage the lower acuity rated long-term care residents.

Testing

We cannot emphasize enough how grateful we are that the state initially obtained our nursing home and assisted living testing supplies and is now helping to pay for the outbreak and surveillance testing of nursing home staff until at least October 31. While testing is only part of a Covid-19 prevention and outbreak containment strategy, it is a crucial part. **We request that the State continue their support of the testing for as long as it is required and consider expanding the support to other aging services and health care providers such as home health care, home care and adult day services.**

Personal Protective Equipment

Aging services providers are being told to stock up on PPE in anticipation of the next wave of the virus, but we are also burning through our PPE supply in our current operations. The pandemic is not over and nursing homes and other providers continue to utilize PPE on a daily basis. The state has now ceased their weekly distribution of PPE supplies and has moved to an emergency back-up role. **We encourage full legislative support of the State maintaining the emergency stockpile of PPE and protecting all healthcare providers from the potential supply shortages we may encounter through the duration of this pandemic.**

Visitation

The ban on nursing home visitation is something that all of us across the nation have been experiencing since early March. Our state visitation order, which allows for outdoor visits, was just recently expanded to allow for indoor compassionate care visits. That expansion complies with the federal CMS visitor restriction guidance that has been issued to all of the states. We know, however, that many would like to see further expansion of indoor visitation, which we know brings with it more risk of introducing an outbreak. State and federal authorities will continue to monitor and weigh this risk as we move through the federally defined nursing home reopening phases. What we know for sure is that a low community prevalence of the virus is instrumental to that reopening, and so we encourage everyone to stay the course, wear your mask, observe social distancing and practice hand hygiene.

As we do move toward reopening for visitation in a safe manner, we should take into consideration any necessary modifications to the buildings that will be needed. As we discussed earlier in the testimony, state funded grants to expedite the creation of visitation areas, on-site visitor screening areas, and other safeguards could be something to consider offering sooner rather than later.

Video Surveillance of Nursing Home Residents

We wanted to address the issue of video surveillance of nursing home residents by family members. There was a bill raised last session in the Aging that received a public hearing in February. We did provide extensive testimony on that bill. Unfortunately, the Committee did not address any of the concerns we raised and the substitute voted out of committee was almost identical to the raised bill. The concept of implementing video monitoring of individual nursing home residents is a very complicated issue and balanced consideration must be given to the rights and interests of all those involved. Privacy rights are paramount in the discussion and should include consideration of the privacy of the resident, the resident's roommate, other residents in the building, and visitors to the nursing home. The rights of nursing home employees and other professionals working in the building must be taken into consideration. And finally, the vulnerability of the video images carried through the unsecured internet to mobile devices, such as the personal phones of the surveilling family, must also be addressed in any legislation.

Immunity Provision

We are grateful for the limited immunity that has been provided to hospitals, nursing homes, Covid recovery centers and individual health care professionals through the Governor's executive order. Long-term care workers and facilities have been on the frontline of this pandemic response, and it is critical that the state provide the necessary liability protection that staff and providers need to provide care during this difficult time without fear of reprisal. As we pointed out in our previous testimony, the situation was very fluid at the start of the pandemic. Federal and state guidance on how to provide appropriate care for those in need was changing almost on a daily basis. While we have learned much since the early days of the pandemic, guidance still continues to change.

We know that significant legal challenges follow catastrophic disasters such as this one. And the threat of these challenges can impede the provision of public and private health care services during a disaster response. A level of immunity from liability is needed to encourage individuals and organizations to provide creative and innovative services to save lives without the fear of damaging their organization's ability to survive after the emergency is over. This immunity provision is good public policy and has been enacted in several other states for that very reason.

I would like to end by saying how grateful we are to have the collaborative partnerships within the state as we face this unprecedented pandemic. The focus of this collaborative effort has always been on the safety of our residents and clients and their dedicated caregivers – and we cannot lose that focus as we plan for future surges of the virus. The pandemic is not over. We need to prioritize the safety of the older adults who are so vulnerable to this virus.

Thank you for the opportunity to testify and we look forward to working with the Committees moving forward on these issues.

Respectfully submitted by Mag Morelli, President of LeadingAge Connecticut.

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