



**Appropriations, Human Services & Public Health Committees Listening Session
Regarding COVID-19 Related Public Health Issues
Wednesday, September 2, 2020**

Good afternoon, Senator Osten, Senator Abrams, Senator Moore, Representative Walker, Representative Steinberg, Representative Abercrombie, Ranking Members and Members of the Appropriations, Public Health and Human Services Committees. Thank you for the opportunity to comment today on potential legislative proposals related to COVID-19 and public health issues.

AARP advocates on behalf of people ages 50 and older. We have 38 million members nationwide and nearly 600,000 members in Connecticut. While COVID-19 impacts people of all ages, older adults have proven especially vulnerable to serious illness and death; people over the age of 50 have accounted for slightly more than half of all COVID-19 infections and 98% of COVID-19 deaths in our state. Protecting older residents, especially those with underlying health conditions that may make them more susceptible to serious illness, has been and should remain a top priority for the State.

Now that nearly six months have passed since COVID-19 arrived in Connecticut, we must also begin to prioritize a quieter, unseen epidemic: loneliness and social isolation amongst older residents, especially those who live in nursing homes. Even before COVID-19, public health professionals warned of the adverse impacts of loneliness and social isolation, which include an increased risk of dementia, an increased risk of heart disease and stroke, an increased risk of emergency department visits, and an increased risk of premature death that “may rival those of smoking, obesity, and physical inactivity.”¹

On August 19, 2020, AARP Connecticut sent a letter to Governor Lamont and Department of Public Health Commissioner Gifford outlining our recommendations for what actions the State should take to protect nursing home staff and residents in the coming months. This letter, included below, focuses largely on how to keep residents connected to their loved ones. We were pleased to see that some of our recommendations, such as requiring alternative communication, were addressed in the August 27, 2020 Public Health Order, but additional action is needed.

Specifically, we would like to see the Connecticut General Assembly: require regular, ongoing testing for nursing home staff and residents; rescind civil immunity for nursing homes; allow nursing home residents to install and utilize widely available communications technology such as two-way cameras in their rooms; and implement a comprehensive set of guidelines for in-person visitation. In addition to our August 19th letter, we’ve also attached three other letters (dated June 29, May 28, and March 20, 2020) that detail our positions. All of these letters were sent to both the administration and legislators.

We would also like to emphasize the importance of creating an open and transparent process for COVID-19-related policy decisions as we move forward. We understand and appreciate how difficult it was for the State to respond to the pandemic in its early months; we believe that quick, decisive action by State leaders saved lives. However, the people who have been most impacted by COVID-19 policies – including nursing home residents – MUST be included in conversations and decisions moving forward. Today’s listening session is a step in the right direction, and we thank you for the opportunity to share our comments and recommendations.

¹ National Academies of Sciences, Engineering, and Medicine. 2020. *Social Isolation and Loneliness in Older Adults: Opportunities for the Health Care System*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25663>[external icon](#)



August 19, 2020

Dear Governor Lamont and Commissioner Gifford:

Connecticut is entering the sixth month of its public health emergency, and, thankfully, we have seen a sharp decline in the number of COVID-19 infections and deaths taking place in Connecticut nursing homes. AARP Connecticut, on behalf of its nearly 600,000 members throughout the state, appreciates the actions that the State has taken to address the pandemic's devastating impact on nursing home residents and staff. These actions –helping nursing home staff access personal protective equipment, testing nursing home staff and residents, restricting visitation, and creating COVID Recovery Units – have saved lives. We also deeply appreciate the State's willingness to learn from its experience with COVID-19, including today's release of the interim Mathematica report that stems from Governor Lamont's order for an independent assessment of the impact of COVID-19.

As we approach the September 9, 2020 expiration date for Governor Lamont's public health and civil preparedness emergency declaration, AARP Connecticut believes that the State must take continued action to protect nursing home residents and staff in the months to come. We strongly recommend that you: 1) extend and improve COVID-19 testing requirements for nursing home staff and residents, 2) rescind civil immunity for nursing homes, 3) continue to require long-term care facilities to facilitate alternate forms of in-person visitation, 4) ensure that nursing home residents and their families are able to install and utilize widely available communications technology such as two-way monitoring cameras in their rooms, and 5) consider a clear set of guidelines for reopening nursing homes to in-person visitation.

Regular and Ongoing Testing of Nursing Home Residents and Staff

Executive Order 7AAA requires nursing homes to "weekly test members of the nursing home facility staff for COVID-19 who have not previously tested positive for COVID-19, and shall continue such weekly testing for the duration of the public health and civil preparedness emergency, or until testing identifies no new cases of COVID-19 among residents or staff over at least 14 days since the most recent positive result." Unfortunately, the Executive Order fails to take into account the importance of community prevalence. It is not good enough to do baseline testing to determine whether or not COVID-19 is present *in a facility* when the staff of that facility may live in several different communities, have children attending schools or daycares in various communities, shop in stores in multiple communities, and have the ability to travel to other states, including current COVID-19 hotspots. As Mathematica noted in their interim report, the Department of Public Health's current testing policy "might inadvertently miss asymptomatic spread of COVID-19 without detection."

With that in mind, AARP Connecticut urges you to prioritize and ensure regular testing of all staff and residents of LTC facilities, in accordance with CDC guidelines. With the federal government's recent announcement of its commitment to send point-of-care testing units and kits to every nursing home in the country and to help facilities secure subsequent tests at a reasonable cost point, we urge you to ensure that all Connecticut facilities are utilizing these resources and understand how to access additional testing units and kits.

We also ask that this procurement be utilized for testing of visitors, including family and Ombudsman staff, as allowed under federal guidance. The state should ensure that all facilities inform the Ombudsman and visitors of the availability of testing and make this easily accessible to them.

Civil Immunity

It is essential that long-term care providers, as well as health care providers more broadly, remain responsible for any negligent actions to ensure long-term care residents have some protection and opportunity for redress. For this reason, we have strongly opposed Executive Order 7V, which grants nursing homes civil immunity for “acts or omissions undertaken in good faith while providing health care services in support of the State’s COVID-19 response.” As we previously expressed in letters sent to your offices on May 28 and June 29, 2020, we do not believe that substandard care is acceptable for any reason, including COVID-19.

Pursuing a nursing home neglect or abuse case in court is not easy to do. No family member who has lost a loved one due to neglect or abuse pursues this course of action lightly. It is always an option of last resort, but it must remain an option. Connecticut should not strip away the rights and protections of residents. Nursing homes and other long-term care facilities should know they will continue to be held responsible for providing the level of quality care that is required of them, and for which they are being compensated. We ask that you do not continue to allow civil immunity for nursing homes beyond September 9, 2020.

Ensuring Social Connection: Virtual Visitation, Cameras, and In-Person Visitation

Continuing the Success of Virtual Visitation

On May 9, 2020, the Department of Public Health Commissioner issued an Order requiring long-term care facilities to regularly facilitate reasonable and practical alternative means of communication for residents in the absence of regular in-person visits. AARP Connecticut strongly supported this order and asks that facilities be required to continue these virtual visits, window visits, and other forms of communication beyond September 9, 2020. Many residents have loved ones who may be older or have underlying conditions that will make in person visitation risky, even if and when it is permitted.

Allowing Residents to Install Widely Available Technology in Their Rooms

Even before the COVID-19 pandemic, AARP CT was asking lawmakers to ensure the right of nursing home residents to install and utilize communication technology in their rooms. Connecting to a loved one by virtual visitation allows family caregivers to identify changes in a resident’s health or quality of care, to interact with their loved one’s on-site health care provider when not able to attend a health care interaction in-person, and to help improve a loved one’s well-being with enhanced opportunity for social interaction by video and audio. The use of remote video and audio communications technology is especially important to the estimated 15 percent of Connecticut caregivers who live more than an hour away from their loved one.

Loneliness amongst older adults was rampant even before COVID-19 and social isolation, but technology can make it easier for people to stay in touch with their loved ones, while also giving them a chance to participate as a member of their loved one’s care team. Making sure nursing home residents are able to install and utilize this technology in their own rooms is essential to the emotional, mental, physical, and social well-being of both the residents and their loved ones in the community. We ask that you ensure that all nursing home residents, their families, and the nursing homes where they live are able to install and utilize interactive audio and video in their rooms and to require nursing homes during this time to facilitate the installation of this technology.

In-Person Visitation

In its report, Mathematica notes that “DPH and individual facilities should make concerted efforts to allow for safe visits between residents and loved ones.” Social interaction with family and friends is critical to the overall health and wellbeing of all long-term care residents. Residents and their families have been struggling during these months when in-person visitation in facilities has been restricted. In addition to the social connectivity and emotional support they provide, visitors are key members of the resident’s care team, performing essential hands-on tasks such as feeding, dressing and dental hygiene, and facilitating therapeutic activities that maintain or improve their loved one’s cognition and mobility. In addition, family member visitors carefully monitor their loved one’s health status and are often the first line of defense, identifying key issues of concern to facility staff. Re-establishing visitation should be accomplished by appropriately balancing the resident’s need for social interaction and right to visitation (a right which is imbedded in both state and federal laws and regulations) with the importance of minimizing exposure and risk of transmission to all residents, families, and staff.

The following principles should guide the development of policies to re-instate visitation:

- **Minimizing Risk:** All LTC facilities, their staff and visitors must comply with all required infection control precautions and guidelines established by federal and state governmental entities. This includes screening of visitors (temperature and symptom checks), requiring visitors to properly use masks and other PPE, requiring the use of hand sanitizer, disinfecting visiting areas, and physical distancing.
- **Fairness/Universality:** All LTC residents should be afforded regular opportunities for in-person visitation, in accordance with guidelines established by governmental authorities. It is not acceptable to deny, restrict, or prioritize visitation based on a resident’s cognitive status (dementia), physical limitations, or inability to verbally express feelings of loneliness or depression. Additional flexibility regarding visitation is appropriate for end-of-life and other compassionate care situations.
- **Individualized Plan:** All residents and their families should be engaged by the facility in developing an individualized visitation plan that is reflective of their wishes and preferences, while adhering to all governmental guidelines. These plans should address visitation schedules, location of visits (indoor, outdoor, in-room, designated area, etc.) and responsibilities of all parties. These plans should be reviewed frequently and adjusted to meet changing circumstances and needs. Residents and their families may question or otherwise challenge the individualized visitation plan or any visitation restriction or determination, and they should be provided with Ombudsman assistance in doing so.
- **Responsibilities of Facilities to Facilitate Visitation:** The state should require all facilities to facilitate visits in accordance with each resident’s individualized visitation plan. The state must require each facility to ensure that they have sufficient staff, PPE, adequate and appropriate space to meet privacy needs and distancing requirements to carry out the visitation plan. It is incumbent on the facility to report to the state if they are not able to meet these requirements, and to provide an explanation for this and a plan for how it intends to address this failure. The state should require the facility to prioritize the use of state and federal funds for this purpose.
- **Notification:** It is essential that there be clear, regular information from LTC facilities to residents and their loved ones about how visits will be scheduled and facilitated. The state should require that this information be shared with the state LTC Ombudsman, residents, and families on an ongoing basis in the manner best likely to inform them (email, phone, flyers on meal trays, under doors, posting in common areas, etc.).

- **Residents without Visitors/Outdoor Access:** The state should place a high priority on ensuring that all LTC residents, whether or not they have visitors, are given the opportunity to spend time outdoors, weather permitting, and barring medical contraindications. Similarly, residents who do not have visitors should be provided the same opportunities as residents with visitors to leave their rooms for a change of environment.

We appreciate your leadership in responding to an unprecedented crisis these past several months. As we approach the end of the initial public health and emergency preparedness declaration, we hope you will take the opportunity to reassess and consider new policies that impact residents of nursing homes and other long-term care facilities. If you have any questions about the suggestions that we have outlined in this letter, please contact me or Anna Doroghazi: adoroghazi@aarp.org or (860) 597-2337.

Sincerely,

A handwritten signature in dark ink, appearing to read "N. Duncan", with a stylized, cursive script.

Nora L. Duncan, State Director
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June 29, 2020

Dear Governor Lamont:

AARP Connecticut was disappointed when, on June 17, 2020, you issued Executive Order 7AAA and relaxed the testing standards for nursing home staff that were put into place through Executive Order 7UU on June 1, 2020. While we respect your leadership during the COVID-19 crisis and are thankful for the dramatic reduction in our state's infection numbers, we believe that now, more than ever, is the time to remain aggressive and proactive with testing.

Connecticut's nursing home residents, despite representing less than one percent of the state's total population, have accounted for 64% of the state's COVID-19 deaths and 19% of infections. We know from state data that when COVID-19 enters a nursing home, it is highly likely that multiple people will be infected; we also know that nursing home residents, who tend to be older and who may have underlying health conditions, are more likely to die after becoming infected. We cannot take unnecessary risks with a population that has already suffered disproportionately during this pandemic.

A representative of the nursing home industry was recently quoted as saying, "If COVID is not present within a building for a two-week period, there really is no opportunity to spread the live virus."² This is simply not true. COVID-19 was not present in any Connecticut nursing homes during the first week of March, 2020. By the end of the month, hundreds of residents were infected. Recently published research indicates that "asymptomatic persons seem to account for approximately 40% to 45% of SARS-CoV-2 infections, and they can transmit the virus to others for an extended period, perhaps longer than 14 days."³ Furthermore, as COVID-19 was ravaging residents and staff alike, representatives of the industry pointed to a lack of testing as a reason why the virus was able to spread. In their own words:

- "Right now, it's just the residents [being tested]. Is it as comprehensive or as risk-proof as testing everyone at once, including the employees? It is not. But it helps. A more foolproof system would be one that tests the employees as well."⁴
- "We strongly support the state's new initiative for testing all nursing home residents and hope that our staff will be included in future mass testing, as they are on the front lines of this pandemic."⁵
- "Especially as we continue to expand testing for residents and staff in long term care centers in June, we should anticipate the number of cases to rise as asymptomatic residents and staff will be identified... While an increase in these reported numbers may be startling, it will improve our ability to confront this threat and protect our residents."⁶

² <https://www.wnpr.org/post/lamont-allows-reduced-testing-nursing-home-workers-cites-changing-federal-guidance>

³ Daniel P. Oran, Eric J. Topol. **Prevalence of Asymptomatic SARS-CoV-2 Infection.** *Annals of Internal Medicine*, 2020; DOI: [10.7326/M20-3012](https://doi.org/10.7326/M20-3012)

⁴ <https://ctmirror.org/2020/05/12/widespread-testing-begun-nursing-homes-staff-members-left-out-coronavirus/>

⁵ *ibid*

⁶ <https://www.washingtonpost.com/business/2020/06/01/coronavirus-nursing-home-deaths/?arc404=true>

We understand that everyone is eager to return to “normal,” but life remains far from normal for nursing home residents. Residents have gone months without visitors. They have died alone, without family members by their sides. Many restrictions on residents’ federally-protected rights remain in place. It is horribly unfair to ask residents to continue to make these extreme sacrifices and for staff to continue to risk their own health without also offering them the protection that comes from regular testing.

We urge you to reconsider Executive Order 7AAA. We cannot wait for nursing home staff and residents to become symptomatic before we offer widespread testing; Connecticut tried this, and people died. Please continue to be proactive and regularly test nursing home staff and residents for COVID-19, even when a facility has gone 14 days with no new cases.

We also reiterate our previous call for you to reconsider Executive Order 7V, which grants nursing homes civil immunity for “acts or omissions undertaken in good faith while providing health care services in support of the State’s COVID-19 response.” We are particularly concerned that this immunity extends to “acts or omissions undertaken because of a lack of resources, attributable to the COVID-19 pandemic that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required.” Pursuing a nursing home neglect or abuse case in court is not easy to do. No family member who has lost a loved one due to neglect or abuse pursues this course of action lightly. It is always an option of last resort, but it must remain an option. Connecticut should not strip away the rights and protections of residents. Nursing homes and other long-term care facilities should know they will continue to be held responsible for providing the level of quality care that is required of them, and for which they are being compensated.

AARP Connecticut appreciates your consideration of these views and urges you to continue regular COVID-19 testing for nursing home staff and to rescind civil immunity for nursing homes. Again, we thank you for the leadership that you and your staff have shown during this crisis; the past four months have not been easy. We join the rest of Connecticut in breathing a collective sigh of relief about our declining case numbers, but we urge you to adopt proactive policies that will protect nursing home residents in case of a second wave.

If you have questions, please contact me or Anna Doroghazi at adoroghazi@aarp.org or (860) 597-2337.

Sincerely,

A handwritten signature in black ink, appearing to read "N Duncan".

Nora Duncan
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May 28, 2020

Dear Governor Lamont:

AARP Connecticut, on behalf of our nearly 600,000 members and all older Connecticut residents, is extremely concerned about the number of COVID-19 infections and related deaths in Connecticut nursing homes. AARP has long fought for the rights of residents in nursing homes and other residential care facilities and to ensure their health, safety, quality of care, and quality of life. With nursing homes accounting for more than half of deaths associated with COVID-19 in Connecticut, we urge immediate action on two key issues:

- Clarification regarding COVID-19 testing of nursing home staff and residents; and
- Repealing Executive Order 7V, which grants immunity related to COVID-19 for health care facilities including nursing homes.

Clarification Regarding COVID-19 Testing of Nursing Home Residents and Staff

During this time of pandemic, nursing homes and other residential care facilities face unprecedented challenges. Tragically, as of May 22, more than 2,000 nursing home residents have lost their lives. We know from media reports that nursing home employees, many of whom have demonstrated heroic efforts in recent months, are becoming sick and dying of COVID-19. We also know that this situation is not likely to improve, and that more people will become sick and die, if there is not widespread and ongoing testing at nursing homes.

While we greatly appreciate your administration's recent statement that you hope to have "every nursing home resident and staff member tested by June...and continually tested", we would like the administration to provide additional clarification on how this will be accomplished. For example, will there be consequences for nursing homes that do not test all residents and staff by a date certain? In the absence of consequences for failure to test, will there be incentives for nursing homes that do test all staff and residents? If staff do test positive and need to take time off from work, will additional resources be made available to ensure that there is adequate staffing to meet the needs of residents? Developing guidelines to ensure testing, and publicly sharing progress on testing, would give residents and families peace of mind that nursing homes are actively engaged in preventing the spread of COVID-19.

Immunity

While there may be some circumstances beyond facilities' control for which they should not be held responsible, it is essential that long-term care providers, as well as health care providers more broadly, remain responsible for any negligent actions to ensure long-term care residents have some protection and opportunity for redress. For this reason, we strongly oppose Executive Order 7V, which grants nursing homes civil immunity for "acts or omissions undertaken in good

faith while providing health care services in support of the State's COVID-19 response." We are particularly concerned that this immunity extends to "acts or omissions undertaken because of a lack of resources, attributable to the COVID-19 pandemic that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required."

Given that most inspections of nursing homes have been suspended, family in-person visits are effectively prohibited except in limited circumstances, and in-person long-term care Ombudsman visits are similarly restricted, there are fewer eyes observing what is happening in facilities. Residents of nursing homes may be unable to advocate for themselves and now have limited access to people who can advocate on their behalf. This lack of oversight is alarming, and requires us to ensure that, when all else fails, residents and their families will still have access to the courts to seek redress.

Pursuing a nursing home neglect or abuse case in court is not easy to do. No family member who has lost a loved one due to neglect or abuse pursues this course of action lightly. It is always an option of last resort, but it must remain an option. Connecticut should not strip away the rights and protections of residents. Nursing homes should know they will continue to be held responsible for providing the level of quality care that is required of them, and for which they are being compensated, often at increased rates due to COVID-19.

AARP Connecticut appreciates your consideration of these views and urges you to clarify guidelines related to nursing home testing and to rescind civil immunity for nursing homes. Families all across Connecticut are looking to you to protect the health and safety of their loved ones living in nursing homes and other residential care facilities. If you have questions, please contact me or Anna Doroghazi at adoroghazi@aarp.org or (860) 597-2337.

Sincerely,

A handwritten signature in black ink, appearing to read "N Duncan".

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March 20, 2020

Dear Governor Lamont and Commissioner Coleman-Mitchell:

AARP Connecticut, on behalf of our 600,000 members and all older Connecticut residents, is writing regarding the Department of Public Health Order on preventing transmission of COVID-19 in nursing home facilities, residential care homes, and chronic disease hospitals dated March 13, 2020. We understand your focus on protecting the health and safety of our state's nursing home residents, which is paramount. We are, however, very concerned that neither the current Order, nor the current guidance from the Centers for Medicare & Medicaid Services (CMS), truly enable nursing home residents and their families to virtually visit and communicate during this public health emergency. Requiring nursing home residents to go weeks or even months without *any* visits from loved ones is extremely serious, and the Public Health Order should reflect this by requiring nursing homes to prioritize virtual visits and caregiver communications.

In the March 13, 2020 Order, Commissioner Coleman-Mitchell advised that "all Connecticut Facilities shall impose a complete ban on all visitors to such Facilities for a period of THIRTY (30) DAYS," with no mention of how nursing homes might facilitate virtual visitation in lieu of in-person visitation. We also note that the CMS guidance contains a similar restriction on visitation and only advises that facilities "should consider" offering "alternative means of communication for people who would otherwise visit, such as virtual communications (phone, video-communication, etc.)." People living in nursing homes have the right under federal law to receive visitors, "subject to reasonable clinical and safety restrictions and the resident's right to deny or withdraw consent at any time." The law also requires that nursing homes "must provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident."

During this stressful and difficult time when in-person visitation is very restricted, we strongly recommend that Connecticut immediately modify its March 13, 2020 Public Health Order to require nursing homes to offer *and facilitate* reasonable and practicable alternative means of communication for individuals who would otherwise visit, such as virtual communications. Such virtual visits can be essential to the emotional, mental, physical, and social well-being of nursing home residents. For some residents, these virtual visits may be the difference between life and death.

Given the widespread adoption of video-chat options (from FaceTime to Skype to Zoom and so on), AARP Connecticut believes these virtual visitations must include the ability to communicate on video, not only for the emotional well-being of the resident, but also so family caregivers can ensure their loved ones are being well cared for. If funding is needed to ensure video-chat

options, we encourage the provision of such funding and consideration of how such communications could be part of telehealth.

In addition, during these times of great uncertainty for families, we believe nursing homes should be required to provide proactive communications to the primary caregiver(s) of nursing home residents regarding their physical and emotional health and more general updates or information for families. We urge the state to modify its March 13, 2020 Public Health Order to reflect that nursing homes **must also** create additional or increase listserv communications; assign staff as primary contact for families; and offer a phone hotline for family members to get information about their loved one's care.

We appreciate Connecticut's efforts to ensure the health and safety of nursing home residents and understand the challenges that these facilities are facing. At the same time, it is essential for residents and families to be able to communicate and visit virtually, especially during this public health emergency. Thank you for your prompt attention to this issue of great importance to our state's nursing home residents and their families. If you have questions, please contact me or Anna Doroghazi at adoroghazi@aarps.org or (860) 597-2337.

Sincerely,

A handwritten signature in black ink, appearing to read "NDuncan".

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