



SENATOR KEVIN KELLY
TWENTY-FIRST SENATE DISTRICT

Capitol: (860) 240-8800
Toll Free: (800) 842-1421
Fax: (860) 240-8306

E-Mail: Kevin.Kelly@cga.ct.gov
Website: www.SenatorKevinKelly.com

State of Connecticut

SENATE

STATE CAPITOL
300 CAPITOL AVENUE
HARTFORD, CT 06106-1591

RANKING MEMBER
AGING COMMITTEE
COMMITTEE ON CHILDREN
INSURANCE & REAL ESTATE COMMITTEE

MEMBER
REGULATION REVIEW COMMITTEE

Testimony

September 2, 2020

Appropriations, Human Services & Public Health Committees

Listening Session Regarding Potential Legislative Proposals on COVID-19 Related Public Health Issues

Co-chairs Osten, Walker, Moore, Abercrombie, Daugherty Abrams, and Steinberg, Ranking Members Formica, Lavielle, Somers, Petit, Logan and Case, and all members of the Appropriations, Human Services and Public Health Committees, I thank you for the opportunity to testify before your committees during today's virtual listening session.

Before I share my comments on major public health issues facing Connecticut at this time, I would like to express some concerns I have about this process. While I welcome any and all discussions about how we can address public health issues during the COVID-19 pandemic, I am concerned that less than 24 hours before this listening session was set to being there are no legislative proposals being shared by the committees with the public. While there is a list of seven bullet points, I hope that this meeting is not viewed as a full public hearing by any means for any of those seven items which currently lack any draft language or policy proposals to review and comment on. The General Assembly has rules and laws guiding what must be shared publicly and when during the legislative process to ensure full transparency and public input. For the record, I must point out that those rules have not been following in this situation. I am also disappointed that the Committee on Aging, on which I serve as Ranking Member, has again been excluded by the three other committees on issues where the Aging Committee represents the voices of the most vulnerable patients and residents of nursing homes. Appropriations deals with finances. Human Services deals with agency assistance. Public Health deals with care providers. But the Aging Committee is specifically and uniquely focused on being an advocate for the elderly individuals most at risk. Our committee looks at any and all legislation solely from the perspective of seniors. That perspective must be part of the state's efforts to address this pandemic and save lives.

I would like to share the following comments with the committees today and hope that today will mark the start of a more comprehensive approach in our state that prioritizes those most vulnerable to COVID-19 – the elderly and minority communities.

Combating Resurgence

First, I would like to discuss the state's preparedness for any future resurgence of COVID-19 in our nursing homes. The interim report on the state's nursing homes response released last month by Mathematica is nothing short of an indictment on the Governor's administration and Department of Public Health. It found that Connecticut ignored nursing homes and failed to provide lifesaving personal protective equipment. The result was a nursing home death rate far greater than the national average. The report also indicates that to this day, our state is still not prepared for a potential deadly second wave in our long-term care facilities. Connecticut

was wholly unprepared for the devastating spread of COVID-19 in nursing homes across our state and if the Governor cannot prepare a plan for a second wave the legislature must.

Specifically, I urge these committees to review the state's policies overseeing the purchasing of personal protective equipment, how those policies have changed, what missed opportunities there may have been, and how we can improve our ability to obtain PPE by adopting a long-term strategy to support nursing homes. The interim report issued by Mathematica does not delve into this issue further than recognizing a lack of PPE was an issue. But the question remains how will we ensure nursing homes have the proper protective equipment and testing for staff and residents in the future. In addition, I have heard of multiple nursing homes receiving poor quality PPE that is not up to the standards our workers and residents deserve. Lawmakers need to examine the flaws in the administration's PPE policies and seek better planning and protection for quantity and quality of PPE for an extended period of time.

I also urge these committees to consider that Connecticut clearly needs a comprehensive plan for a second wave, from PPE to keeping COVID-positive patients together, and we need it now. We must learn how 30 percent of nursing homes had few or no deaths, and why others were so decimated. We must treat seniors with dignity and allow family members to be their eyes and ears by revising visitation restrictions.

For months, nursing home residents were terrorized. They were kept in their rooms scared and isolated, surrounded by illness and death, without even an opportunity to walk outside for a breath of fresh air for months. Workers were asked to care for patients without proper PPE, testing or protection. We must stop this psychological, emotional and mental trauma from ever happening again.

Communication and Visitation Policies in Nursing Homes

Connecticut also must address the serious issues related to the continued isolation of nursing home residents under the Governor's orders and Department of Public Health policies that continue to ignore the importance of family visits in preserving physical and mental health and wellbeing. This includes revising the state's visitation policies and funding video technology for residents to access in their rooms.

Too many nursing home residents have died since March. Many due to COVID-19, but we also cannot ignore the impact continued social isolation has had on the death toll and the health and wellbeing of vulnerable nursing home residents. The legislature should be pushing for further changes to the Department of Public Health's policies to allow for expanded safe indoor visitation with family members at nursing homes, especially at this time as cases have slowed and we have not yet entered an anticipated second wave. The elderly in our nursing homes do not have time on their side, and they deserve to be able to see their loved ones. The negative impact of isolation on mental and physical health can be just as dangerous as the pandemic itself and must not be overlooked.

Recent guidance from the Department of Public Health issued last week clarifies how outdoor visits should occur and expands "compassionate care visits" to individuals who undergo "a significant change in his or her physical, mental or psychosocial status." However, the order falls short of allowing for visits between nursing home residents and family members before a decline in physical health or wellbeing occurs. Rather, the order only allows for visits once a person has already had a negative change in their health or are near death. This policy fails to acknowledge the importance of family visits in preventing further decline. The legislature needs to consider allowing family visits to occur with proper safety precautions for all nursing home residents. Visits with loved ones should not have to wait until a person's health has further deteriorated. The value of family visits is that they can help prevent such deterioration from occurring in the first place.

In the early days of the pandemic, nursing home residents were terrorized by the situation they faced. They were kept in their rooms scared and isolated from family, surrounded by illness and death, without even an opportunity to walk outside for a breath of fresh air for months. Since the pandemic slowed, outdoor, virtual and window visits have been allowed but the lack of indoor visitation has put those with mobility issues at a

disadvantage. In addition, the impact of weather can also keep families apart, whether it be extreme heat, rain or eventual arrival of cold weather. The order issued last week by DPH still does not allow for visitation for residents who are not near death and who would prefer to have an in-person visit indoors. The order also does not address what happens when the weather turns colder in a few months and outdoor visits can no longer occur. Lastly, the compassionate care visits can only occur if a facility has not had a positive COVID-19 test in the past 14 days. If someone is near death on day 13 of no COVID-19 cases they can't be visited. However, when visits do occur, they "shall be permitted without regard for strict social distancing requirements, allowing the resident and the visitors to touch each other, provided the resident and the visitors wear all appropriate personal protection equipment throughout the visit, as identified and provided by the nursing home facility in accordance with its visitation policy." This seems to be inconsistent policy.

While many of the measures the Governor has taken are well intentioned, some in regard to our nursing homes are deeply disturbing and the policies in place do not acknowledge the resulting damage and the risk residents experience. Some of these effects are just as damaging to a person's wellbeing as the COVID-19 virus itself, speeding up decline, diminishing capacity, and negatively impacting other aspects of personal health. The Governor's actions have been tied exclusively to the virus, as if the virus is the only threat seniors in nursing homes face when it comes to their health and wellbeing. There are other threats that need attention too. Social isolation, lack of exercise and mobility also substantially contribute to poor outcomes. In this process residents' dignity and human rights must not be abridged, including the right to quality health care, fresh air and family interaction. We need a focus on patients and people. The interim report issued by Mathematica on the state's response to the pandemic in nursing homes failed to include any interviews with nursing home residents. Researchers also failed to conduct any on site visits. Out of the entire interim report, only one page was dedicated to a patient centered care plan. It's obvious that the people in nursing homes were not made a priority and that must change.

Family members and loved ones are the “eyes and ears” of elderly individuals, especially persons suffering from Alzheimer's disease or dementia. When a person with dementia does not have the ability to interact with their loved ones and what is familiar to them, their capacity diminishes, further accelerating decline. Forcing a person to wait until their capacity diminishes to see their family is the complete opposite strategy of patient centered care we should be embracing. With family members not being allowed to visit, other health issues can go unnoticed and worsen. Nursing home staff work extremely hard to care for their residents. But the interaction between a mother and child or two spouses cannot be replicated. Family members know each other better than anyone and are more likely to pick up on small changes that could be signs of significant health issues or deteriorating, potentially deadly conditions. As Quinnipiac University professor [Nicholas R. Nicholson Jr.](#) has been reporting for years, social isolation is a serious problem with older adults, strong correlations exist between social isolation and negative health consequences ([2009](#)), and older adults experiencing social isolation are at increased risk for numerous negative health outcomes, including depressive symptoms, decreased quality of life, and cardiovascular disease ([2013](#)). In addition, AARP Research found in 2018 that at the time Medicare spent approximately \$134 more for each socially isolated older adult per month than it would if the person were connected, speaking to the impact of isolation on health and wellness.

Virtual or window visits between nursing home residents and family members can be beneficial, but they are limited. Virtual and window visits are not always an effective means for many elderly individuals to communicate. They may struggle with technology or may be confused and frustrated by it, causing further stress and confusion that harms mental capacity. Many residents do not live on the ground floor of buildings, so window visits with family standing far away from a second or third story window may be completely ineffective if the nursing home resident cannot see or recognize their loved ones from so far away. The result is that many nursing home residents feel like prisoners living their last days in isolation and without the human dignity we all deserve.

Once again, I believe family visits should be prioritized for all nursing home residents. The COVID-19 pandemic is most painfully and disproportionately affecting older residents and those in nursing homes. Nearly three quarters of all COVID-19 related deaths in Connecticut occurred in long term care facilities, disturbingly

higher than the national average of 40 percent. The pain these residents are enduring goes far beyond the virus itself and involves the unintended consequences of isolation and restriction on their physical and mental health and wellness.

Codifying Executive Orders into Statute

One of the seven items listed by the committees as an issue you would explore is the codifying of Governor Lamont's executive orders into statute. While some executive orders have been well intentioned in addressing the pandemic, what we have seen in Connecticut nursing homes has been devastating and unacceptable.

According to the Mathematica interim report which only begins to scratch the surface:

- Seventy four percent of all deaths due to COVID-19 in Connecticut occurred in long term care facilities; alarmingly higher than the national average of only 40 percent.
- Connecticut had insufficient personal protective equipment (PPE) going to nursing homes.
- The administration's emergency response efforts focused exclusively on hospitals and ignored nursing homes.
- Connecticut's Department of Public Health lacked an electronic reporting system and relied on fax machines for two months.
- Six out of nine positions in the state's Office of Public Health Preparedness and Response were vacant until July, months after the pandemic ravaged our state.
- States such as New York were far ahead of Connecticut in PPE requirements for nursing home facilities. In this regard Connecticut followed federal guidance.
- Testing was insufficient for months. State policy limited testing to hospital staff and patients, failing to prioritize nursing homes. The governor's order to test all nursing home staff and patients did not come until June 1, months too late. And as we already know, some nursing homes [never began testing](#) until the end of July.
- The state's policy allowing nursing homes to stop testing after two weeks without any cases could lead to further outbreaks.

Why would we want to codify policies that resulted in massive failures to protect the most vulnerable? Why would we want to set into statute policies that trailed behind neighboring states and that continue to put the most vulnerable at risk by not requiring more testing?

Connecticut needs to look at its strategy when it comes to nursing homes anew. Instead of focusing on making the Governor's executive orders law, we need to look at what we can do to better protect the elderly and provide them with the dignity they deserve.

Most of the residents in nursing homes are women. Most of the workers in nursing homes are also women. Protecting people in our nursing homes needs to be recognized not only as a senior issue, but a women's health care issue that is deserving of our full attention.

Nursing Home Funding & Staffing Levels

Over the last decade Democrat governors and lawmakers only increased Medicaid reimbursement rates to nursing homes not tied to salary by 1 percent. These low rates have tied the hands of nursing homes making it impossible to keep proper staffing levels, purchase their own PPE, access technology and modernize their facilities to maintain the quality of care seniors deserve. Medicaid by no means is a gold standard, and when the state is in charge of medical decisions quality suffers. Now more than ever it is apparent that the way nursing homes have been treated has not set up their residents and workers for success. Lawmakers must consider the value of increasing Medicaid reimbursement rates to nursing homes not tied to salary to allow for the investments needed to maintain and improve quality patient centered care.

Lawmakers also must continue pushing for accountability from the Governor's administration on where CARES Act funding has been directed. Nearly three quarters of all COVID-related deaths in Connecticut occurred

among nursing home residents. Yet I doubt that nursing homes received three quarters of the federal funding coming in to Connecticut to respond to the pandemic. We need to know exactly how and where that funding is being spent and we need to make sure nursing home residents and staff are prioritized for needed supports. The CARES Act funding could be used to purchase communication technology to keep residents connected with their families, when visiting in person is unsafe.

We also need to ensure that nursing home residents are treated with dignity. To that end, increasing the personal needs allowance is something Republicans have advocated in favor of for almost a decade. Every year, our proposals have been ignored or rejected by the legislature. Democrats have told us time and again "now is not the time." I argued then and I will argue now, time is not on the side of our elderly residents. A small increase in the personal needs allowance is one way we can improve quality of life and help the most vulnerable in their greatest time of need. It is something that the legislature needs to advance.

Health Equity

Finally, I must comment on a major public health issue that is missing from your list of seven items: health equity. While this listening session was intended to discuss "potential legislative proposals regarding COVID-19 related issues affecting nursing homes and other public health issues," nothing in the listening session's description referenced health equity at all. I would argue health equity is one of the most pressing issues facing our state on which the pandemic has shown an even brighter light.

Connecticut has been a leader in tackling bipartisan reforms to make health care more accessible and affordable. But there are still many issues in health care that need to be considered more closely and problems that need solutions. One of those issues is health care equity. Evidence shows race impacts health outcomes in ways that are unacceptable, inexcusable and not yet understood. The Connecticut Health Foundation released a study this year that found that babies born to African-American mothers are more than four times as likely to die before their first birthday as babies born to white mothers in Connecticut. According to research from the Centers for Disease Control and Prevention (CDC) African American, American Indian, and Alaska Native (AI/AN) women are two to three times more likely to die from pregnancy related causes than white women. A recent study in New York compared birth outcomes among African-American, Latina and white mothers who had babies at the same hospitals. The study found non-white women had a significantly higher risk of developing life-threatening birth complications than white women even in the same maternity wards and with the same type of insurance. Clearly looking at these recent studies, our work to provide the highest quality of care for pregnant women and babies is far from done. Health equity must be part of the discussion.

We also cannot talk about health equity without recognizing the shocking preliminary numbers about the disproportionate effect of the coronavirus on minority populations. State health officials say African Americans are two times as likely as whites to be infected. Latinos make up 16% of the state population, but early estimates suggested they accounted for a quarter of confirmed cases. Now more than ever we need to make sure we understand what inequity exists in our health care system so that we can help all people access high quality care.

When talking about public health during the pandemic, health equity must be part of any and all conversations.

In closing, I feel very strongly that we need the voices of Connecticut residents to be heard at every level, especially the voices of those who are most harmed by the pandemic – elderly individuals, residents in nursing homes and minority populations. I thank you for the opportunity to share this perspective.



Kevin C. Kelly, State Senator (R-21)