Comments to the Department of Public Health

Regarding the

Proposed Regulations for
Minimum Nursing Home Staffing Levels (PR2022-032)

March 12, 2024

Submitted by Mag Morelli, President
LeadingAge Connecticut

LeadingAge Connecticut is a statewide membership association representing not-for-profit and mission driven provider organizations serving older adults across the continuum of aging services, including not-for-profit skilled nursing facilities. Thank you for this opportunity to submit comments on the proposed regulations for minimum nursing home staffing levels.

LeadingAge Connecticut supports the statutory minimum nursing home staffing level of 3.0 hours of direct care per resident day that these regulations are addressing. We share the Department of Public Health's (the "Department") goal to ensure Connecticut's older adults receive quality nursing home care and understand that maintaining appropriate staffing patterns is essential to achieving that goal.

Public Act 21-185 and Legislative Intent

We appreciate the Department's decision to revise these proposed regulations to align with the legislative intent of the enabling legislation, Public Act 21-185. The General Assembly considered all the testimony provided on the proposed legislation, Senate Bill 1030, and subsequently modified the final language of the bill by removing the specific and separate ratios for RNs, LPNs and CNAs that were originally proposed and instead adopting one combined minimum staffing level of 3.0 hours of direct care per resident day. The final language was passed by the state legislature and signed into law by the Governor as Public Act 21-185 and then codified in Connecticut General Statutes §19a-563h.

We note that the proposed regulations continue to maintain the two-shift structure of 7 a.m. to 9 p.m. and 9 p.m. to 7 a.m. We believe that the two-shift structure does not reflect the intent of the legislation to establish a per day minimum staffing level which we contend should be calculated over a 24-hour daily schedule. Once again, the use of a 24-hour daily calculation allows for discretion and flexibility when managing staffing patterns to meet the needs of the residents. We propose that the Department consider removing the two shifts and replacing them with a daily minimum calculation.

Ascentria
CARE ALLIANCE

11 Shattuck Street, Worcester, MA 01605
ascentria.org | 774.243.3100 | info@ascentria.org

March 13, 2024

Re: Minimum Staffing Standards for Long-Term Care Facilities in CT

Dear Commissioner Manisha Juthani,

My name is Angela Bovill, President and CEO of Ascentria Care Alliance. Our organization includes a network of five nonprofit nursing homes in New England, which has 526 beds and employs 1022 staff. We serve older adults at the following centers:

- Laurel Ridge Rehabilitation & Skilled Care Center - 174 Forest Hills Street
  Jamaica Plain, MA 02130
- Lutheran Home of Southbury - 990 Main Street North
  Southbury, CT 06488
- Lutheran Rehabilitation & Skilled Care center - 26 Harvard Street
  Worcester, MA 01609
- Presentation Rehabilitation & Skilled Center - 10 Bellamy Street
  Brighton, MA 02135
- Quaboag Rehabilitation & Skilled Care Center - 47 East Main Street
  West Brookfield, MA 01585

These five nursing homes are members of Ascentria Care Alliance, one of the largest nonprofit human service organizations in New England. With many locations throughout the region, Ascentria serves children, youth, and families; persons with developmental disabilities and mental illness; refugees, including unaccompanied refugee minors; as well as older adults and has done so for over 150 years.

Ascentria committed 100 years ago to serve the elderly because it aligns with our vision that New England is home to caring communities where all people experience love, belonging, well-being, and hope.

A century later, it still holds true that at the heart of our nursing homes is a profound commitment to care and compassion among our dedicated staff. Each day, they go above and beyond, embodying the true essence of caregiving. Their unwavering dedication to our patients is not merely a job; it is a calling, a noble mission that enriches the lives of those they serve.

We ask DPH to do the following:

- **Wait for the workforce to return before implementation:** There is currently a national shortage of healthcare workers, and this trend is likely to continue for the foreseeable future. DPH's proposed staffing standards can only be met by increasing staffing. Currently, across our network, we have CNA, LPN, and RN openings that we are struggling to fill, with many of them having been open for months.

  This is a challenge for all our skilled nursing providers for several reasons. First, the qualified candidates are unavailable for hire as so many healthcare workers have left the workforce. New workers are not entering the healthcare field where pay is low and the work is hard. Second, both for-profit and non-profit nursing homes are competing for the same limited supply of candidates, driving wages higher and making recruitment and retention a tremendous challenge. We do not have the resources to fund new staff positions even if they were available to hire.

CAHCF/CCAL
Connecticut Association of Health Care Facilities
Connecticut Center for Assisted Living

March 13, 2024

The Connecticut Association of Health Care Facilities ("CAHCF") is a Connecticut trade association located at 213 Court Street, Suite 202 in Middletown, CT 06457. CAHCF respectfully submits the following comments on proposed regulation "Nursing Home Staffing Levels" (Tracking Number: PR2022-032):

1. COMMENT 1. The proposed regulation should be revised as follow:

Section 1. Subsection (m) of Section 19-13-D8t of the Regulations of Connecticut State Agencies is amended as follows:

(m) Nursing staff: (1) For purposes of this subsection, "direct care staff" shall mean licensed nursing personnel and certified nurse's aides that are engaged in direct health care services, including but not limited to, personal care services for residents in nursing homes**, assistance with feeding, bathing, toileting, dressing, lifting and moving, administering medication, assessments, and promoting socialization, but does not include food preparation, housekeeping, laundry services, maintenance of the physical environment of the nursing home or performance of administrative tasks.**

REASON:

CAHCF is recommending this revision to provide additional specificity with regard to the tasks that are included as "direct health care services" for purposes of the regulation. assistance with feeding, bathing, toileting, dressing, lifting and moving, administering medication, and promoting socialization.

COMMENT #2. The proposed regulation should be revised as follow:

[(5)] (6) In no instance shall a chronic and convalescent nursing home, or a rest home with nursing supervision, have direct care staff below the following standards **of 3.0 hours of total direct care staffing during a twenty-four hours per day**:

(A) Licensed nursing personnel:

[7 a.m. 9 p.m.: .47] .83 hours per [patient] resident

(B) Total nursing and Nurse's aide personnel:

[7 a.m. to 9 p.m.: 1.40] 2.17 hours per [patient] resident

[9 p.m. to 7 a.m.: .50 hours per patient]

REASON:

To more strictly align the proposed regulations with Public Act No. 21-185, CAHCF recommends that the outdated shifts of 7 am to 9 pm and 9 pm to 7 am be repealed and substituted with a twenty- four hour requirement totaling 3.0 hours as follows: licensed nursing.: .83 hours per resident, and total nursing and nurse's aide personnel : 2.17 hours per resident. The 7 am to 9pm and 9pm to 7am designations do not reflect the shifts currently utilized across health care institutions such as nursing homes and hospitals and is therefore more challenging for providers to track staffing levels. We believe the daily requirement of 3.0 hours per resident combined with the specified minimums of licensed nursing are sufficient to ensure that providers have adequate direct care staff at all times while still allowing flexibility to staff to meet the specific needs of their own resident population, recognizing that different resident populations and acuity levels will have higher staffing needs at varying times throughout the day.

COMMENT #3. The proposed regulation should be revised as follow:

(7) [In facilities of 61 beds or more, the] The director of nurses [or] **and, in facilities of 121 beds or more,** the assistant director of nurses shall not be included in satisfying the requirements of [subdivisions] subdivision (6) of this subsection**, except in instances where such individual is exclusively engaged in direct health care services which is evidenced by a daily assignment sheet, log, or other documentation.**

REASON:

The facility should be able to count the direct health care services provided by the director of nurses and the assistant director of nurses so long as the direct health care services provided are in addition to their full-time duties and responsibilities. One key job responsibility of the director and assistant director of nurses is to ensure sufficient staffing to meet resident needs. This can result in such individuals needing to provide coverage for call outs or similar staffing shortages. These instances should be included for purposes of calculating direct care staffing ratios where such direct health care services are performed in addition to their full-time duties and responsibilities. Further, existing laws only require an ADNS in facilities of 121 beds or more. In facilities where the ADNS is not a mandated role, these individuals often serve in a direct care

role and should not automatically be excluded from staffing calculations, consistent with current Public Health Code requirements.

Respectfully submitted,

Matthew V. Barrett, JD, MPA

President / Chief Executive Officer

Connecticut Association of Health Care Facilities / Connecticut Center for Assisted Living

213 Court Street, Suite 202

Middletown, CT 06457

860-290-9424 (tel); 860-290-9478 (fax); **www.cahcf.org** (web)

Name: Giamattei , Elizabeth
Submission Date: 2/16/2024
Agency: Department of Public Health
Subject: Nursing Home Staffing Ratios
Tracking Number: PR2022-032

I have been a LPN for about 18 years in CT. Any unit taking short term rehab patients w/ IV therapy, LVADS, PEG tubes etc. should never have more than 15 patients. Too much is going on for one nurse to manage with 30 patients. Long term care floors differ because there are no acute issues, but even on a LTC floor unless you do that med pass daily it's difficult and the 3 checks while passing meds goes right out the window. I believe a lot of unfortunate incidents and med errors would not happen if the LPN has no more than 15 on rehab units. Mixing short and long term always ends up chaotic. I have decided last 5 years to remain on night shift where I will take up to 38 rehabs because I enjoy being busy. I will never again work 7-3/3-11 in any nursing home.

Ascentria CARE ALLIANCE
11 Shattuck Street, Worcester, MA 01605
ascentria.org | 774.243.3100 | info@ascentria.org

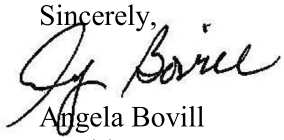
- **Drop the 24/7 RN staffing requirement**: Our apprehension stems from the prolonged deficit of registered nurses nationwide, spanning over a decade. Implementing a 24/7 RN staffing criterion might prove unattainable. Additionally, finalizing this standard could inadvertently exacerbate healthcare workforce shortages across various care settings.

- **Recognize and include LPNs in the minimum hour's requirement:** Our LPNs provide essential care and support to residents in nursing homes, contributing to their physical, emotional, and psychological well-being. Their role is critical in maintaining the health and dignity of elderly or chronically ill individuals in long-term care settings. LPN's interactions with residents most certainly contribute to our ability to provide the highest level of quality care possible and should be given credit in the hour's requirement. Moreover, the role of LPN offers career ladder opportunities for CNAs, helping to improve staff retention.

We want to be clear that we do not oppose a meaningful 3.0 minimum staffing rule. However, we do have serious concerns about the above components of the proposed standards and guidelines. We believe that the intended goal of the proposed regulatory rule is to maximize the quality of care received by nursing home residents. However, DPH's plans for implementation will make it more difficult for skilled nursing centers like ours to remain focused on meeting the needs of our residents in a manner that has benefited them for over 100 years.

We respectfully ask that DPH consider revising its proposed regulation to address these concerns. We want to be part of a solution that works for all nursing homes in Connecticut and would welcome the opportunity to join any committee that may materialize in this matter.

Sincerely,



Angela Bovill
President & CEO

Acuity-Base Rate System Philosophy

The state is currently phasing in a new acuity-based Medicaid rate system for the nursing home sector. The system is intentionally designed to reimburse at a higher rate of payment when a nursing home's resident case mix reflects a higher level of acuity because the nursing home is expected to meet the needs of higher acuity residents with higher skilled and/or higher levels of direct care staff. This methodology assumes a level of flexibility in setting staffing patterns throughout the day to meet the needs of those residents. One staffing pattern does not fit all needs. The needs and underlying conditions of nursing home residents vary widely—as do the skills and capacity of health care professionals. The regulations would recognize this and be accommodating to staffing patterns designed to meet the varied needs of residents.

Conclusion

In conclusion, we do not oppose these regulations as proposed, but do request that the Department reconsider the separation of the nursing staff minimum requirements into two shifts and instead establish one minimum for a full 24-hour period. We share the same goal of providing quality nursing home care to every nursing home resident and stand ready to work collaboratively with the Department to achieve this goal.

Submitted by Mag Morelli, President of LeadingAge Connecticut
110 Barnes Road, Wallingford, CT 06492, mmorelli@leadingagect.org, (203) 678-4477
www.leadingagect.org