



State of Connecticut
Department of Aging and Disability Services
Long-Term Care Ombudsman Program

**Appropriations, Human Services and Public Health Committees
Listening Session
Wednesday, September 2, 2020
Testimony of Mairead Painter, State Long-Term Care Ombudsman**

Co-Chairs and distinguished members of these Committees. My name is Mairead Painter and I am the State Long-Term Care Ombudsman. Thank you for the opportunity to offer this testimony. The Long-Term Care Ombudsman Program (LTCOP) is mandated by the Older Americans Act and Connecticut General Statutes Sections 17b-400 through 17b-406 to provide services to protect the health, safety, welfare and rights of the residents of long-term care facilities. As the State Ombudsman, it is my responsibility to facilitate public comment and represent the interests of residents in order to recommend changes to the laws, regulations, policies and actions which affect the resident's quality of life and care. On behalf of the 35,000 residents in Connecticut's skilled nursing facilities, residential care homes and managed residential communities, I would like to testify regarding the COVID-19 related Public Health issues for long-term care residents in Connecticut.

Under normal circumstances, there are many individuals, including family and friends, who regularly visit the nursing homes and are able to observe directly and report any concerning issues. Given the ban on visitation, unless the resident is at end of life or experiencing a significant change in condition, all interaction with residents is limited to video, window or limited outdoor visits, for a minimum of 30 minutes a week. These visits must be prescheduled at a time that the long-term care community can accommodate them. Family and friends are not able to enter the nursing homes to observe the current conditions.

Likewise, up until this point, in-person long-term care Ombudsman visits have been similarly restricted. Although every effort is being made to advocate on behalf of residents by the Long-Term Care Ombudsman Program (LTCOP), there is unquestionably less oversight. This unprecedented isolation of long-term care residents has residents, their families and concerned groups across the state concerned about increased risk for abuse and neglect. My office has received thousands of calls related to complaints and concerns as a result of the pandemic and these restrictions.

Areas of concern that the LTCOP feels must be addressed:

Immunity - Executive Order 7V 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"

- This should be rescinded or amended to better protect residents of long-term care facilities.
- Accountability is essential and means requiring homes to provide quality care that meets the needs of each individual.
- To exempting nursing homes from liability for all except **gross negligence** gives license to those so inclined to neglect residents' needs and rights.

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- Many facilities are being compensated by the State of Connecticut at an increased rate during the pandemic and should be able to provide the highest level of care.
- These facilities need to be held to a standard of care for their residents, who are some of the state's most vulnerable citizens at this time.
- In-room camera use should be allowed through this period of time and any future time when family, friends and advocates are not able to have open access to the SNF.

Nursing Home Visitation - Under normal circumstances, there are many individuals, including family, friends and Ombudsman, who regularly visit the nursing homes. These individuals are able to observe directly and report any concerning issues.

- All visitation in long-term care settings other than end of life or Compassionate Care is limited to video, window or limited outdoor visits, family and friends are not able to be closer than 6 feet or to enter the nursing homes to observe the current conditions. They are seeing significant decline of the resident on the video chat or at the outdoor visit:
 - Reports of weight loss
 - Failure to thrive
 - Overall physical decline
 - Injury/mistreatment
- Compassionate Care visits are currently only allowed at the VERY end of life or if the resident has experienced a significant change in condition:
 - There have been cases when family was not called in time and no visit took place
 - Some homes were only offering 1 visit and you must say goodbye then even if the person lives longer
 - New CMS guidance came out in a FAQ on 6/23 and led to the most recent expanded guidance, which was issued by DPH on August 27th, 2020.
- In-person long-term care Ombudsman visits have also been restricted:
 - Every effort is being made to advocate on behalf of residents by the Long-Term Care Ombudsman Program (LTCOP), using alternative means of communication with the residents and family members
Unquestionably less oversight
- How long can residents be expected to be “kept safe” in isolation:
 - There is an immediate need for all residents to have access to an Essential Support Person (ESP)
 - This would be 1 designated person allowed to visit the resident in the nursing home daily (this is supported in other states)
 - There is no timeline or understanding as to how long this ban will remain in place
 - There is CDC guidance on reopening
 - Homes must reach “Phase III” for visits to be restarted and this will take too long for many residents to last
 - Homes must have adequate Personal Protective Equipment and staffing
 - Staff is an ongoing issue – many facilities staff to the 1.9 hour a day State requirement and not the federal rule to meet individualized needs.
 - Advocates and family members are not able to demonstrate that needs are not being met until it is too late.

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- Staffing is not just about hands on care and nursing, but without family and loved ones in they also need greater assistance having their social and emotional needs met.
 - They need more recreation staff
 - They need more social workers

Testing

- Regular resident and staff testing for anyone who has never tested positive:
 - Expanded testing guidance just came out and we are hopeful it will be one of the tools to keep facilities COVID free

Infection Control

- The circumstances surrounding the tragedy at the Three Rivers Nursing Home are heartbreaking and totally unacceptable. Governor Lamont and the Department of Public Health have issued orders that make clear the seriousness of any cases of COVID-19 in nursing homes and the utmost importance of having infection control measures in place.
- Nursing Home Residents are dependent upon the commitment of every staff member to follow infection control protocols, as well as the careful monitoring of compliance by the management of these long-term care facilities.
- This tragedy has shown that residents lives depend on such measures and without them an outbreak can occur with swift and deadly results.

There is a common goal to ensure our long-term care residents have the highest level of care while the state responds to the pandemic. I believe it is necessary that the residents and family members are part of the solution. This should be accomplished with them, not for them. With the input of residents and family members, the LTCOP is recommending the following be required of all long-term care communities throughout the duration of the pandemic.

- 1) High quality care that meets individualized needs
 - a. COVID Care planning for each resident
 - i. Identify residents' needs and how they will be met during this period of isolation
 - ii. Must include family/responsible party when appropriate or identified
 - iii. Must address their personal care needs
 1. Toileted as needed and timely
 2. Showers – weekly at a minimum
 - b. Access to outside/time out of room daily
 - i. For COVID negative and COVID Positive Units
 - c. Access to interaction with family or friends via phone or video conference as requested
 - d. Access to medical procedures as resident/responsible party see necessary
- 2) Appropriate staffing levels to meet individualized needs
 - a. If resident previously had family coming in to feed or assist with eating, how will that now be done equally by staff and documented on care plan

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- i. Identify how long family was taking to appropriately feed the resident
 - i. There should be enough staff to meet this need in the same way or family should be allowed in to meet the need
 - b. Requirement for staff in addition to Nurses and CNA's to meet the social and emotional needs of residents
 - i. Social workers
 - ii. Recreation
 - iii. Mental Health Support
 - iv. Clergy
- 3) Compassionate care visits are defined to meet individualized needs
 - a. Support mental health of the resident when they are documented to be declining
 - i. Significant unplanned weight loss
 - ii. Failure to thrive
 - iii. Increase in behavioral symptoms
 - b. Physical decline
 - i. Increased difficulty with mobility/independence
 - ii. Increased falls
 - iii. No longer able to toilet self
 - c. Need for nutritional support
 - i. Family/responsible party can take extra time or engage to feed the resident
- 4) Camera or virtual video connection
 - a. Residents and responsible parties have the right to decide if camera use is appropriate and necessary for the resident's wellbeing
 - b. Current visitation restrictions make it impossible to for residents to file confidential complaints
 - c. Advocates, Family and friends are unable to access the nursing home to see what is happening inside the nursing home
- 5) Testing
 - a. Should be ongoing
 - i. Remain in place at least until the restriction on residents are removed

Respectfully submitted,



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Department of Aging and Disability Services