



Testimony Before the Select Committee on Aging

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Michael P. Starkowski
Commissioner
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Good morning, Senator Prague, Representative Serra and members Select Committee on Aging. My name is Michael P. Starkowski. I am the Commissioner of the Connecticut Department of Social Services (DSS). I am here this morning to testify on several bills concerning the programs, services and operations of DSS.

S.B. No. 450 (RAISED) AN ACT CONCERNING NURSING HOME OVERSIGHT

This bill would re-establish and revise the membership of the Nursing Home Financial Advisory Committee. The bill adds the Comptroller, or designee, and State Ombudsman to the Committee comprised of representation from DSS, OPM, DPH, CHEFA, OFA and two representatives of nursing homes appointed by the Governor. The bill makes the Comptroller chairperson of the Committee. Under current statute the Committee is co-chaired by the representatives from DSS and DPH.

The Committee would have authority to audit nursing homes and nursing home management companies. The Committee could recommend that the Commissioner of Social Services seek appointment of a receiver to take over operation of a nursing home.

The Department is not supportive of this bill as it would further fragment responsibility for nursing home oversight, replicate audit responsibilities that already exist in DSS and would inappropriately maintain nursing home representation on the Committee. The expertise for evaluating the nursing home financial stability resides in DSS, DPH and CHEFA. In addition, resources from the Office of the Attorney General's Whistleblower and Health Care units also provide valuable support. It is unnecessary to add the Office of the Comptroller. Further, any change to Committee membership should include removal of nursing home representation. It is not appropriate for representatives of existing facilities to participate in financial oversight functions of other competing facilities. The Committee would certainly consult and seek input from nursing home owners and representatives on general financial oversight topics but matters involving the financial condition of specific facilities should not be shared with individuals representing other facilities operating in Ct.

As you may know, in the 2008 session, Governor Rell offered legislation (SB 32) that would have reconstituted the Nursing Home Financial Advisory Committee as an executive branch committee to focus on financial solvency and quality of care issues with annual reporting requirements to the legislative committees of cognizance. The bill included additional financial reporting requirements, established debt restrictions and insurance coverage minimums and strengthened receivership statutes. During the last legislative session my staff and I worked extensively with legislative staff and the Office of the Attorney General to develop an enhanced nursing home oversight program. Unfortunately, that legislation was not adopted in 2008. I recommend that the oversight legislation drafted in the 2008 session be revisited and those negotiations resume.

S.B. No. 451 (RAISED) AN ACT ESTABLISHING A SILVER ALERT SYSTEM

This bill seeks to establish a 'Silver Alert' system similar to the Amber Alert System presently used for children. The Silver Alert System is directed at alerting the state of a missing older person (over age 65) so that the public can assist law enforcement in finding an individual before harm can come to them. While I applaud the good intentions behind this legislation, I have some concerns with the creation of such a system:

- Since dementia and Alzheimer's disease can affect individuals as young as 45, why would this be for those over the age of 65 only?
- Should this system be made available for any person with other cognitive challenges?

The National Association of State Units on Aging (NASUA) surveyed its membership on this topic and the following items were highlighted:

- The top concern raised by the states was that the alerts would be overused. One state reported that the police in their state "feel as though the families and caregivers repeatedly allow individuals to wander because they know that law enforcement officials will find them."
- The former New York State Governor vetoed proposed silver alert system legislation with a veto message that indicated that the silver alert system would weaken the Amber Alert system by making the alerts "too common".
- Another concern expressed by states was that the cost of the programs would be high. Of the states responding to the survey, however, most of the states indicated that the costs associated with the program were minimal.
- Protecting the rights of the missing seniors was also a concern raised by several states that fear that the individual's privacy will be violated. The states with Silver Alert systems in place indicated that they had tight controls in place to guard against further exploitation but it was something that needed to be monitored.

Without a fiscal analysis it is difficult to endorse given the current economic climate. I would recommend that more research be done on the implementation of this program with a focus on local resources available and the impact on existing state resources.

S.B. No. 452 (RAISED) AN ACT CONCERNING FUNDING FOR ADULT DAY CARE CENTERS

This bill requests an increase for a specific type of service- Adult Day Care- that is included as a service in the CT Home Care Program, the Alzheimer's Respite Care Program, Protective Services for the Elderly and the Community Based Services Program. Any increase to the fees paid to any one type of service under these programs will cause an overall increase to the budgets for the programs mentioned above. This increase would either reduce the overall services available to the clients under their

present care plans or push the budget for these programs higher which is not acceptable in these economic times

This bill would increase the adult day care rate under the home care waiver program to \$70.00 per day. The current rate is \$63.55 per day. The \$63.55 per day rate became effective July 1, 2007 and represented a 3% increase over the rate in effect in the prior year (\$61.70). All home care waiver or home health/nursing care rates were increased by 3% in SFY 2008.

It is estimated that a rate increase of 10.2% (\$63.55 to \$70.00) would increase SFY 2010 budget requirements by approximately \$1.5 million. Based on the additional cost and the potential ripple effect on other types of community based services, I cannot support this increase without a concurrent increase in our appropriations.

S.B. No. 453 (RAISED) AN ACT CONCERNING FINANCIAL ASSISTANCE TO THE STATE'S ASSISTED LIVING PILOT PROJECTS

Currently, of the 75 clients currently participating in the Private assisted Living Pilot Program, 82% of them are state funded and only 18% are Medicaid waiver clients for whom we get the 50% federal match. State funded expenditures for this program are over \$100,000 per month. Doubling the number of participants would likely double the expenditure. Only \$20,000 is spent monthly on waiver clients for whom we claim the 50% match. Currently there are 111 persons on the waiting list who appear functionally and financially eligible for the program.

S.B. No. 454 (RAISED) AN ACT CONCERNING NURSING HOME STAFFING LEVELS.

This bill requires that the Department of Public Health (DPH) coordinate state licensure and federal Medicare/Medicaid certification inspections for 75% of facilities. Current statute requires 50% dual inspections. The bill requires that DPH compare direct care (Nurse and Nurse Aide) hours as reported to DSS in Medicaid cost report filings with estimated necessary direct care staffing hours based upon resident assessments/ acuity and estimated required staffing requirements per Federal studies.

This bill establishes minimum direct care staffing requirements effective January 1, 2010 of 2.32 nurse aide hours per resident per day and 1.18 nursing hours per resident per day. Current CCNH staffing regulations effectively require 1.26 nurse aide hours per resident per day and .64 nursing hours per resident per day for a total of 1.9 total nursing hours and nurse aide hours per day. Under this proposal facilities would need to report any noncompliance with the new standard to DPH, including identification of the specific understaffed shift.

While the noncompliance reporting section of the bill references staffing shifts (e.g. day, evening, night), the new minimums are established on a daily basis. Current DPH requirements (and we believe in most other states) are shift specific.

Medicaid rate setting statutes (Section 17b-340 CGS) provide that increased costs associated with changes to Federal or State laws be reflected in payment rates. Consequently, those facilities that must increase staffing to comply with the new daily minimums would be eligible for Medicaid rate adjustments with an associated state cost impact. Based upon a preliminary review of reported paid nursing and nurse aide hours in 2007 Medicaid cost report filings (and adjusting for estimated non care hours – vacation, holidays, sick, etc.), it is estimated that 80 facilities would need to add both nursing and nurse aide staff and 84 facilities would need to add either nurses or nurse aides to comply with the proposed staffing standards. Initial estimates of increased annual Medicaid costs are between \$45 million and \$55 million.

As a result, the department must oppose the bill because of the significant costs to the state

H.B. No. 5297 (RAISED) AN ACT CONCERNING THE STATUS OF THE MONEY FOLLOWS THE PERSON PROJECT

Currently the department is required to submit 35 reports to the federal government on the status of the Money Follows the Person Program. As an alternative to this legislation and in an effort to not increase the workload, we would offer to meet with members of this committee and review the existing federal submissions. Reports already produced for the federal government could be reproduced for members of the legislature.

H.B. No. 5298 (RAISED) AN ACT INCREASING THE ASSET LIMITATIONS UNDER THE STATE-FUNDED CONNECTICUT HOME CARE PROGRAM FOR THE ELDERLY

DSS opposes this increase for several reasons. First, the asset limit for the state funded program was increased significantly in April 2007 from \$20,328 for individuals and \$30,492 for a couple to \$30,492 for individuals and \$40,656 for a couple. The State-Funded CHCPE asset limit is set as a percentage of the minimum Community Spouse Protected Amount (CSPA). This increase represents a rise from 150% of the minimum CSPA to 200% of the minimum CSPA.

Moreover, this asset test by state statute increases annually on January 1 by in the Consumer Price Index for Urban Consumers (CPI-U) in the prior October through September period. The current minimum CSPA is \$21,912 compared to \$19,908 three years ago in 2006. As a result, this month the asset limit was increased again to \$32,868 for individuals and \$43,824 for a couple.

As the state funded asset test increases against the Medicaid component of the program's asset test, which has remained level, the effect is a disproportionate increase in the percentage of state funded clients versus Medicaid clients on the Home Care Program. As you know, there is no federal financial match in the state component cases compared to the 50% federal match we receive in the Medicaid component. Currently

37% of the CHCPE clients are state funded. Increasing the state funded asset limit would increase that that even more all at state expense.

H.B. No. 5311 (RAISED) AN ACT INCREASING TEMPORARY FAMILY ASSISTANCE BENEFITS FOR CARETAKER RELATIVES

This bill would increase the payment standard for child only assistance units in the Temporary Family Assistance program to the foster care rate paid by the Department of Children and Families. It is assumed that the intent of this bill is to only provide the increase to those headed by a non-parent caretaker relative, as the term "caretaker relative" is not defined. Parents are caretaker relatives of their own children as the term is commonly used in the TFA program.

The department must oppose the bill because of the significant costs associated with providing such a benefit increase. The DCF foster care rate ranges from \$745 to \$823 per child, depending on the child's age. In the TFA program the normal flat grant payment standards are provided for these children, \$354 for one child and \$470 for two children in such families. There are approximately 6,600 children cared for by about 5,000 non-parent caretaker relatives in the TFA program. Increasing the benefit levels as the bill proposes would result in additional annualized costs of over \$30 million.