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TO: Members of the Select Committee on Aging
FROM: Kevin Brophy, Director of Elder Law for CT Legal Services
RE: Opposition to SB 233, An Act Concerning the Discharge of Patients for Nonpayment of Applied Income
DATE: March 9, 2010

I am the director of elder law for Connecticut Legal Services, a non-profit agency which is the largest legal aid organization in CT. My testimony is on behalf of our low income elderly & disabled clients, who reside in skilled nursing facilities.

I am testifying in opposition to SB 233. Under state statute (Conn. Gen. Stat. § 19a-535), nursing homes can only discharge a resident based on a few, specific grounds. This proposal adds an additional ground: the failure of the resident to pay their applied income for more than sixty days.

Applied income is the amount calculated by the Department of Social Services that the resident must pay the facility. Generally, for residents on Medicaid, the resident is responsible for paying their income to the nursing home, after certain deductions are made, including a personal needs allowance, a community spouse allowance, or a home maintenance allowance. The Medicaid program then pays the balance of the bill.

I am against this bill for the following reasons:

1. It is an extreme measure directed at a vulnerable population- Many residents of nursing homes have serious health problems, or have dementia or cognitive impairments. Many times the applied income is not getting paid not due to the fault of the resident, but because he or she is relying on others to handle their financial affairs, or there is a disagreement over the amount of the applied income between the resident and the Department of Social Services, or there is a delay in processing the application.

2. Nursing homes have other options to collect applied income- A facility has other options that are less punitive and harsh than discharging fragile residents from their home and becoming possibly homeless. Nursing homes may request that the resident's income get



sent directly to the facility. It may also sue the resident or their representative. It can also file a Petition in Probate Court to have someone appointed to handle the person's financial affairs.

3. Nursing homes should not be able to discharge residents when it was the fault of the facility- Many times, nursing homes have not acted responsibly or promptly and this has led to the applied income not being paid. Nursing homes may not have adequately explained to residents and their representatives their duties as to applied income. The facility also may have been able to assist the resident by getting their applied income reduced, but failed to do so. For example, some residents need their limited income in order to maintain their home in the community. Medicaid allows a "home maintenance allowance" which reduces the amount of the applied income for the resident. Nursing homes could inform residents of the criteria and assist them in applying for this allowance. It would be a win- win situation. Nursing homes would get paid more and the resident would be able to keep their home and save the state money by not having to maintain them in an institution.

Please reject Raised Bill No. 233, An Act Concerning the Discharge of Patients for Nonpayment of Applied Income. Thank you.