

# CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

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March 9, 2010

**Testimony of Russell Schwartz, Legislative Committee Chair, Connecticut Association of Health Care Facilities (CAHCF) before the Select Committee on Aging**

Good morning Senator Prague, Representative Serra and to the members of the Select Committee on Aging. My name is Russell Schwartz. I am Director of Operations at Avon Health Center and West Hartford Health and Rehabilitation Center. These facilities have been owned and operated by my parents for more than thirty years.

Today, I am pleased to offer testimony on two bills on behalf of the Connecticut Association of Health Care Facilities (CAHCF), our state's 110 member trade association of proprietary and nonprofit nursing homes, for which I am on the Board of Directors, and serve as the chairperson of the association's legislative committee.

**S. B. No. 233 (RAISED) AN ACT CONCERNING THE DISCHARGE OF PATIENTS FOR NONPAYMENT OF APPLIED INCOME.**

Our association supports SB No. 233, which will allow nursing home facilities to transfer or discharge nursing home residents who fail to pay applied income to the facility for more than sixty days.

This legislation addresses the difficult situations that arise when a nursing facility resident or designated responsible party fails to pay their required share of the cost of nursing home care, commonly referred to as "applied income. Typically this amount is available to the resident from monthly social security, retirement benefits, and other income sources, and is required to be paid to the nursing home. For the committee's benefit, Medicaid payments to a nursing home for the care provided to a resident are reduced by a state-calculated "applied income," amount, less a personal needs allowance.

While it is the responsibility and legal obligation of the resident to remit monthly the calculated applied income amount, too often the resident or designated responsible party fails to meet his or her obligations to the nursing home. Medicaid payments to nursing homes assume the collection of applied income amounts without respect to whether they are actually paid. In the most egregious cases, family members regrettably receive and dispose of the proceeds of the monthly income amounts intended for the nursing home.

When this happens, nursing homes are significantly harmed because they are forced to provide care that is unreimbursed. Effectively, nursing homes end up providing "free care." As a result, nursing homes must resort to costly collection efforts, which are not reimbursable by the state. Most often, such activities are not worthwhile because social security amounts may not be attached as a means to satisfy a court ordered judgment for

the repayment of debt. Even more costly and difficult to prove are the cases of fraud, where a family member or other person with fiduciary duties has stolen the funds intended for nursing home care. In most cases, only the resident can bring the action for recovery, but they are most reluctant to do so against family members.

I have experienced two such situations recently. First, a brother stole \$24,000 of applied income from our resident, and there has been an unwillingness by the resident to seek recovery. Second, is a recent case where the resident refused to pay more than \$20,000 in applied income over a six month period.

In closing, I would like to emphasize that the transfer and discharge of a resident is a last resort action. Much more preferable would be to have the law strongly incent the payment of required applied income amounts, as this legislation does, so that residents do not face the prospect of an involuntary discharge from the nursing home in the first place.

**S. B. No. 234 (RAISED) AN ACT CONCERNING NOTIFICATION OF FINANCIAL STABILITY OF NURSING HOME FACILITIES AND MANAGED RESIDENTIAL COMMUNITIES TO PATIENTS AND RESIDENTS.**

Our association can support the provisions in Section 1, subdivisions (1) and (2), however, we offer the following technical language revisions for the committee's consideration in (2): the reference to "in bankruptcy" should read "has filed for protection under Chapter 7 or Chapter 11 of the United States Bankruptcy Code."

We are opposed to the provision in subdivision (3) as drafted. We assume that the concern here is filing for a CON to close the nursing facility. The CON laws already require a nursing home to notify both the Ombudsman and all residents if such a CON is filed. There are many other reasons a nursing home could file a CON, such as expansion, purchase or sale of beds, renovations, etc. As drafted, all of these situations would trigger the notice provision.

Thank you again for this opportunity to testify and I would be happy to answer any questions you may have.