

Testimony before the Human Services Committee – March 1, 2011

S. B. No. 299 (Committee) AN ACT CONCERNING THE ENFORCEMENT OF SURETY CONTRACTS BY NURSING HOMES.

The Connecticut Association of Health Care Facilities (CAHCF), our state's 115-member association of for-profit and not-for-profit nursing homes offers the following testimony concerning *S. B. No. 369, AN ACT CONCERNING THE ENFORCEMENT OF SURETY CONTRACTS BY NURSING HOMES.*

This legislation addresses the very important issue of assuring that applicant's and those acting on their behalf have clear and concise notice about their responsibilities in the Long-term Care Medicaid application process. This is a protection for both the applicant and the nursing home where admission is sought.

Importantly, the bill preserves the circumstances under which a contract may include provisions authorizing recourse when there has been an inappropriate transfer of assets or when there is a failure to follow through with the Medicaid application process.

It is far too often the case that Connecticut nursing homes, through no fault of their own, are left providing nursing home care without any payment from public or private sources. Almost all nursing home bad debts result from the failure of a family member or the resident's legal representative to apply and obtain approval for Medicaid assistance in a timely manner or when property or money has been given away by the resident. Nursing homes are in reliance of the family member or legal representative to take the appropriate steps to obtain Medicaid assistance. The nursing home simply does not, and could not possibly, have access to the extensive, detailed personal financial information required to complete an application for Medicaid assistance.

Other bad debts occur when the resident has given away money or property during the five-year look-back period and is therefore ineligible for Medicaid assistance for a period of time, triggering a transfer of assets penalty period, or when the applicant or responsible party fails to pay applied income amounts, usually monthly Social Security benefits, to the nursing home.

Nursing home bad debts caused by failure to file or incomplete Medicaid applications and transfers of assets cost Connecticut providers hundreds of thousands, if not millions of dollars every year. These harmful losses are avoidable with the cooperation of a family member or resident's legal representative.

To further clarify our understanding of the legislation's intent, we offer the following substitute language to the committee bill:

-Add new subsection (e): (e) This section shall apply to all nursing home contracts with residents or the resident's representative executed on or after July 1, 2011.

-On line 17, add under (2): the applicant fails to TIMELY FILE or return a properly completed application....

-On line 36, insert after "shall", BE IN A LANGUAGE THAT THE APPLICANT OR APPLICANT'S REPRESENTATIVE UNDERSTANDS and delete the remainder of the sentence. This is advisable to avoid situations where a contract may be void if not written in the primary language, even though the applicant has full English proficiency and understanding.

For more information, contact: Matthew V. Barrett, CAHCF Executive Vice President at mbarrett@cahcf.com or 860-290-9424.