



# STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES  
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## **Testimony of the Office of Protection and Advocacy for Persons with Disabilities Before the Public Health Committee**

Presented by: James D. McGaughey  
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Thank you for this opportunity to comment on RB 6593, AAC Residential Care Homes.

For those of you who may not be familiar with our Office, we are a small, independent safeguarding agency. We operate pursuant to both federal and state statutory mandates to investigate abuse, pursue administrative and legal remedies for disability discrimination, and to inform, educate and advise people with disabilities, families and communities regarding disability rights. One of our mandates is to affirmatively reach out to people in traditionally underserved communities and locations – a mandate which, several years ago, led us to launch a project to establish contact with residents of Residential Care Homes throughout the State, many of whom have psychiatric or various types of cognitive and physical disabilities. Since that time we have advocated for a number of those residents who were confronting various issues including having their mail opened by staff, lack of privacy for meeting with visitors, and withholding of personal funds by facility operators, many of whom are also named as Representative Payees for their Social Security checks. We have also represented, or attempted to represent, residents at Department of Public Health administrative hearings to contest decisions to discharge them. So our comments on this bill are informed by and reflect that experience.

RB 6593 attempts to do two good things and several very bad things. The good things are: 1) providing that a registered nurse be present in each Residential Care Home for a minimum of five hours per month to monitor and supervise non-medical staff who pass out medication; and 2) allow for in-home healthcare services so that residents would not need to be sent to nursing homes if they develop some kinds of personal care or health monitoring needs. The bad things derive from Section 2 of the bill, which would strip people living in Residential Care Homes of the protections contained in the nursing facility resident's Bill of Rights, and remove operators of Residential Care Homes from some of the accountability and enforcement mechanisms provided in current statute.

Why would it be good to require the periodic presence of an RN to oversee medication administration? The obvious answer is that trained professionals can more easily spot the symptoms of medication side effects, drug interactions, problematic storage and administration practices, and even some kinds of newly emerging health problems that a lay person who has merely completed a short training course probably would not be able to spot. Just as

importantly, it would bring another, outside set of eyes into what are the least regulated, least reviewed, and least uniformly operated congregate care facilities licensed by the State of Connecticut.

One of the more striking features of Residential Care Homes is how much they vary in size, setting, and environment. Some are relatively small. Some are operated in conjunction with larger facilities or as auxiliaries to religious organizations, while many others are family businesses or are owned by investment partnerships. In some, residents are well integrated into their communities, coming and going freely, benefitting from longstanding relationships with each other and with staff. Others are much larger, geographically and programmatically isolated, and characterized by controlling administrative practices and rules. In fact, some are located in buildings formerly occupied by nursing homes, and house upwards of 70 people.

Because Residential Care Homes do not provide healthcare or healthcare coordination, and all residents must be deemed capable of self-evacuation, it is not uncommon for residents who experience a decrease in self-care skills or an increase in healthcare needs to be placed into nursing homes. For people who may have lived for years in one of those homes characterized by stable relationships, community connections and a genuinely friendly administration, being placed into a nursing home is an awful experience. The pilot program of nursing care described in Section 7 could help mitigate some of the harshness of this phenomenon. However, I would question whether simply allowing these non-medically oriented “room and board” businesses to hire a part-time nurse is the best approach. Who would the staff nurses report to? In many cases the operators of Residential Care Homes do not have the kind of training or level of licensure that prepares them to supervise skilled healthcare staff, and there would be little opportunity for the part-time nurses contemplated by the bill to consult with other nurses or medically trained people to double check clinical judgments. My suggestion would be to consider alternative language that would clarify that people living in Residential Care Homes could have regular access to services from recognized, licensed Home Healthcare Agencies, which can provide clinical supervision and back-up.

As indicated above, our Office sees major problems with Section 2 of the bill. Section 2 operates to remove Residential Care Homes from the definition of “nursing home facility” in the general statutes, and to specifically remove them from the ambit of a number of safeguarding and regulatory oversight provisions of the statutes which govern all such facilities.

Chief among the protections that would be eliminated by this proposal is the Patient’s Bill of Rights (Sec. 19a-550). Among other things, the Bill of Rights requires that residents be informed of their rights, and of services available and costs associated with those services. It specifically guarantees that residents can choose their own doctors and participate in their own care planning, that they cannot be subjected to arbitrary room reassignment, that they can make private phone calls and send and receive unopened mail, that they can meet with others and with representatives of patient advocacy programs, that they can voice grievances and suggest policy changes and make complaints and reports of abuse and neglect to investigatory agencies without fear of retaliation, that their confidentiality must be respected, that they have a right to their own clothing and personal property, to be treated with respect and dignity, to have reasonable

accommodation for individual needs and preferences, and to receive fundamentally decent care. The formulation of the Bill of Rights was based on models suggested by consensus statements from both federal and State sources, and was adopted with the deliberate intention that it would apply to all licensed congregate care facilities – which is why Residential Care Homes are included in the definition of “nursing home facilities”. Both our Office and the Nursing Home Ombudsman’s program have had to rely on the Bill of Rights as a basis for asserting the rights of residents of Residential Care Homes, pointing out violations and securing changes to practices that have, at times, served to intimidate and control residents rather than support them in the exercise of their rights.

The bill would also eliminate other safeguards. Section 2 would specifically exempt Residential Care Homes from statutory requirements affecting the management of patient personal funds (Sec. 19a-551, 552); reporting crimes (Sec. 19a-553); providing notice of and allowing review of inspection reports (Sec. 19a-536); reservation of residents’ beds during periods of brief hospitalization or home visits ( (Sec. 19a- 537); and, disclosure of costs (Sec. 19a-539). It would also limit or remove the basis upon which the Department of Public Health could issue citations, impose civil penalties, and seek injunctions to address urgent problems (Sections 19a-522 – 534a).

As you consider these comments, please understand that many of the people who reside in Residential Care Homes struggle with mental illness, and most have no other option available to them short of shelters for homeless people. What looks like a simple change in definition in this bill would have a profound effect on the power relationship between them and their primary caregivers, and would further remove the least regulated, least uniformly configured congregate care facilities in our State from much needed oversight and accountability mechanisms.

Thank you for your attention. If you have any questions I will try to answer them.