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## Testimony of Attorney Joelen J. Gates Before the Public Health Committee

### Regarding H. B. No. 6593 An Act Concerning Residential Care Homes

March 23, 2011

## Recommended Action: REJECT Section 2

**The proposal eliminates protections in state statutes for vulnerable residents of residential care homes.**

I am an attorney with Connecticut Legal Services, Inc. specializing in representation of low income elderly clients (60+ years). This work includes representation of residents of residential care homes (RCHs) and nursing homes regarding their rights and protections found in current state law. These are vulnerable individuals who, because of health issues and competencies, are unable to live independently.

### Removal of protections for vulnerable residents of RCHs in Section 2 of the bill:

**Legal Services opposes the proposed deletion of "residential care homes" from the definition of "nursing home facility" in Conn. Gen. Stat. section 19a-521 (H. B. 6593 sec. 2).** By deleting RCHs from the definition of "nursing home facility," RCH residents will lose critical rights and protections delineated in Conn. Gen. Stat. sections 19a-522 to 19a-534a, 19-536 to 19a-539, 19-550 to 19a-554, and 19a- 562a. These include:

- authorization for the Department Of Public Health (DPH) to adopt regulations to provide for the health, safety and welfare of RCH residents (sec. 19a-522)
- authorization for DPH to seek injunctive relief for violations of the public health code against a RCH (sec. 19a-523)
- authorization for the DPH Commissioner to cite violations of law in RCHs (sec.19a-524)
- prohibition against discrimination or retaliation against complainants in RCHs (sec. 19a-532)
- the patients' bill of rights (sec. 19a-550)



- protections regarding management of a resident's personal funds (sec.19a-551)

**If the intent of this bill is to remove state law protections of RCH residents, we urge the committee to reject this bill.** These protections are critical to this vulnerable population. However, if the bill is not intended to remove the protections afforded by state law to RCH residents, these protections could be maintained if each relevant statute was amended to specifically include "residential care homes" as a distinct covered institution.

**Concerns regarding the medical model in section 7 of the bill:**

Legal Services has concerns regarding the proposed establishment of a medical model pilot in RCHs. This section would authorize the Commissioners of Public Health and Social Services to develop a medical model pilot program that would permit a RCH operator to utilize the services of a licensed registered nurse to provide health care services to its residents.

Some RCH residents who qualify for Medicaid, a Medicaid waiver or Medicare currently utilize the services of visiting nurses (some residents may not qualify for nursing services covered by Medicaid due to age, income or functional needs). We support allowing individuals to live in the least restrictive setting possible, consistent with their care needs. If an individual is able to continue living in a RCH with the assistance of a registered nurse, avoiding unnecessary placement in a nursing home, this proposal would afford that option.

**However, we are concerned individuals will be placed in RCHs when nursing home level of care is needed, to avoid the cost and quality of care standards applicable to nursing homes.** Nursing homes, unlike residential care homes, are heavily regulated by federal and state quality of care standards. RCH residents should not be deprived of the quality of care they need and deserve. This proposal may jeopardize timely access to the appropriate quality of care.

If the committee decides to proceed with this bill, Legal Services urges the addition of a provision creating a pilot oversight board that includes representatives of interested parties including DSS and DPH, to provide updated information and data regarding pilot implementation, and consumers/RCH residents, including Legal Services [list others], charged with meeting monthly to evaluate the pilot and review placements to ensure each RCH resident in the pilot is receiving the appropriate level of care.