



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

LONG TERM CARE OMBUDSMAN PROGRAM
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AGING COMMITTEE
Tuesday, February 28, 2012

Written Testimony
Of
State Long-Term Care Ombudsman
Nancy Shaffer

Good Morning Honorable Chairpersons, Senator Prague and Representative Serra, and distinguished members of the Aging Committee, my name is Nancy Shaffer and I am the State Long-Term Care Ombudsman. I sincerely appreciate this opportunity to represent the needs and concerns of Connecticut's long-term care residents in regard to the Personal Needs Allowance. I testify today in support of:

HB No 5215 AN ACT INCREASING THE PERSONAL NEEDS ALLOWANCE

As you are aware, when an individual is deemed eligible for Medicaid in a long-term care facility, a portion of the individual's income is set aside for the resident as a "Personal Needs Allowance" (PNA). This stipend is for the express purpose of providing funds to cover a variety of personal expenses, expenses which are not otherwise allotted for in the Medicaid reimbursement to the facility. In some instances, some residents must also use their Personal Needs Allowance to cover such medical services as Podiatry care. Expenses which must come from the Personal Needs Allowance include hair cuts and styling, clothing, television and telephone services, some over-the-counter medications, as well as some of the simple pleasures of life: an occasional meal outside the nursing home, a book, stamps and stationery, toiletries not provided by the facility. All would agree that the simple pleasures of life are so important to one's perceived quality of life.

When considering the high cost of living in Connecticut, it is easy to understand that \$60 monthly does not go far to provide for some of those "simple pleasures of a quality life" previously noted. Connecticut is ranked high in its cost of living as compared to other states in the country. The Eastern States in particular have high costs of living. Our neighbor to the north, Massachusetts, an economy similar to our State, provides a \$72.80 Personal Needs Allowance to its nursing home residents.

The 2011 Connecticut General Assembly had many difficult economic decisions to make and reducing the Personal Needs Allowance by 13% was one of those tough decisions. We all understand that. But a reconsideration of that decision is proposed by the Statewide Coalition of Presidents of Resident Councils and revisiting this reduction is warranted. In 2011, the reduction was listed in the budget as a **temporary**

measure. The Executive Board of Presidents of Resident Councils has solicited signatures of residents in support of reinstating the PNA to \$69 and also reinstating the Cost of Living Allowance. The Executive Board has suggestions to recoup the 1.7 million dollar savings to the State should the Personal Needs Allowance be reinstated.

SB No. 137 AN ACT CONCERNING FEAR OF RETALIATION IN NURSING HOME FACILITIES

Issues of Fear of Retaliation for long-term care residents are well documented in the work of the Long-Term Care Ombudsman Program and are borne out in research conducted by the University of Connecticut. As individuals become more frail and dependent on their caregivers and the longer they reside in a long-term care facility, the more prevalent are their concerns and fears about retaliation when voicing grievances. By both federal and state statute, long-term care residents have the "right to voice grievances and recommend changes in policies and services to facility staff or to outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal" (CGS 19a-550 (b) (5)). The Connecticut Long Term Care Ombudsman Program has been dedicated to better understanding Fear of Retaliation and promoting awareness and education. We have learned that in fact, sometimes staff do not recognize that their actions and behavior are perceived as retaliation by the resident. Over the years, we've also had many staff voice their desire to better understand the issue.

At the heart of Residents' Rights is the resident's ability to feel comfortable exercising his or her rights. It is so important that staff have better awareness and understanding of the resident perspective. This proposed legislation will provide the ongoing opportunity to promote education and awareness and nurture an environment of more open communication in the skilled nursing setting. Currently, across the country there are now many State Long Term-Care Ombudsman Programs which use the Connecticut Ombudsman Program's video and curriculum to train their own staff and volunteers about retaliation issues. The Ombudsman Program is very proud of this achievement. The State of Connecticut has opportunity to be the first state in the country to take this step in further ensuring Residents' Rights by mandating an annual staff training on Fear of Retaliation.

SB No. 139 AN ACT CONCERNING NOTIFICATION OF FINANCIAL STABILITY OF NURSING HOME FACILITIES AND MANAGED RESIDENTIAL COMMUNITIES TO PATIENTS AND RESIDENTS

This proposal ensures that individuals seeking admission to one of these facilities has financial information related to the home's financial stability prior to making a decision about moving into that home. For many reasons it is difficult for individuals

to move into a nursing home facility or managed residential community, it is a serious and life-changing decision. In Connecticut's long-term care environment it is not uncommon for nursing homes to declare bankruptcy or to be placed in state-receivership. At any given time over the past six years at least one home in the state has been in a state of financial instability as defined by bankruptcy reorganization or state receivership. When residents and families learn after an admission that the home is in financial difficulty it can be very unsettling and disturbing. As consumers, they often tell us they feel misled. Informed decision-making provides the best opportunity to make the right personal decision. This legislative proposal promotes informed choice prior to admission.

SB. No. 140 AN ACT CONCERNING GRIEVANCE COMMITTEES IN NURSING HOME FACILITIES

Connecticut General Statute 19a-550 (b) (6) requires that residents of long-term care facilities have the right to voice their grievances and "shall have prompt efforts made by the facility to resolve grievances the patient may have, including those with respect to the behavior of other residents". The proposed Act Concerning Grievance Committees in Nursing Home Facilities, provides that a Grievance Committee is established so that residents have a venue at which to voice their grievance along with the opportunity to have the grievance resolved. The language of this proposal provides that a resident is elected to sit on the Grievance Committee. The proposal also accounts for those residents who may wish to keep their grievance confidential with the facility administration and they can choose to voice their grievance directly to the administrator rather than utilizing the Grievance Committee.

Other proposals before the Aging Committee:

SB No. 176 AN ACT CONCERNING AIR CONDITIONING IN NURSING HOMES

This proposal requires that nursing homes install air conditioners in each resident room by July, 2013. The Long Term Care Ombudsman Program strongly supports adequate temperature controls, including air conditioning, in every nursing home. This specific proposal may warrant further study. Many of Connecticut's nursing homes have installed air conditioning systems in the hallways and common areas of the buildings. Most of the time this is adequate to meet the comfort and physical needs of the residents. In some facilities however, this type of a system may not be adequate, this should be determined for each individual facility. Some residents, either due to their medical needs or personal preferences, require air conditioning in their individual rooms and this should always, unquestionably, be provided.

Most important is that nursing homes keep their systems in good working order so that at the onset of the summer heat season the air conditioning system is functioning at capacity. The Long-Term Care Ombudsman Program frequently investigates complaints by residents and families about inadequate air conditioning during heat waves. Often times our investigations uncover that the air conditioning system has only just been inspected and is found to be in disrepair. The repair, orders for replacement parts, etc. are just beginning at the exact time of the heat wave. In one case, two years ago a facility ordered the parts the first day of the heat wave and the parts were to be delivered from Canada and due to arrive many weeks later! There should be requirements that an air conditioning system is inspected and repairs made prior to the summer months. If this measure alone was mandated, it could be enough to ensure that residents are comfortable during the hot summer months. The Department of Public Health could monitor compliance of this mandate during its annual Licensure and Certification inspection.

SB No. 177 AN ACT CONCERNING THE LIABILITY OF NURSING HOME OWNERS FOR NEGLIGENCE AND ABUSE OF NURSING HOME RESIDENTS

The intent of this proposal is to raise the awareness of nursing home owners that they may be held accountable for abuse and/or neglect of nursing home residents. Too often the Long Term Care Ombudsman Program investigates complaints from residents and their families and finds that with better supervision, better training and greater accountability the problems would not have risen to such problematic and at times very egregious levels. In many instances, supervision, education and training, and ample staffing may well have prevented the abuse or neglect occurrence. This proposal puts nursing home owners and operators on notice that they may be criminally liable for abuse or neglect of residents entrusted to the care of their employees. This potential liability will hopefully promote a more active and engaged role in the allocation of appropriate resources for a quality level of staff, training and supervision, and care.

On behalf of the long-term care residents of Connecticut, I sincerely appreciate this opportunity to give voice to their needs and concerns.

Thank you for your consideration and commitment to quality care and services to Connecticut's elders and disabled individuals.