

CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

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 family for more than thirty years. Today, I am pleased to offer testimony on behalf of the Connecticut Association of Health Care Facilities (CAHCF), our state's 149-member trade association of nursing homes, for which I serve on the Board of Directors, and as the chairperson of the association's legislative committee.

S.B. No. 137 (RAISED) AN ACT CONCERNING FEAR OF RETALIATION TRAINING IN NURSING HOME FACILITIES.

This is well-intended legislation which can be efficiently and effectively implemented by including any new fear of retaliation training requirements within the annual resident rights training that is currently required of all Connecticut nursing homes to direct care staff and monitored by the Connecticut Department of Public Health. We understand that this is the intent of the legislative proponent, the state long term care ombudsman. In this regard, we recommend the following clarifying language to the bill. With this clarification, the bill has our full support.

*"Sec. 2. (NEW) (Effective October 1, 2012) Each nursing home facility, as defined in section 19a-521 of the general statutes, shall annually, **WITHIN THE CURRICULUM OF REQUIRED RESIDENT RIGHTS' TRAINING**, provide a minimum of one hour of training to all employees of the nursing home facility concerning residents' fear of retaliation, including discussion of (1) residents' rights to file complaints and voice grievances, (2) examples of what might constitute or be perceived as employee retaliation against residents, and (3) methods of preventing employee retaliation and alleviating residents' fear of retaliation."*

S.B. No. 139 (RAISED) AN ACT CONCERNING NOTIFICATION OF FINANCIAL STABILITY OF NURSING HOME FACILITIES AND MANAGED RESIDENTIAL COMMUNITIES TO PATIENTS AND RESIDENTS.

We can also support the reasonable provisions in this bill requiring that residents and prospective residents be notified when a nursing home is in receivership or facing bankruptcy.

S.B. No. 140 (RAISED) AN ACT CONCERNING GRIEVANCE COMMITTEES IN NURSING HOME FACILITIES.

We are opposed to this bill. Connecticut nursing homes deliver care in a highly regulated environment. Federal and State law already provides that all nursing home residents have the right to voice grievances without fear of discrimination or reprisal. They also have the right to prompt efforts by the facility to resolve all grievances. In addition, residents and residents' families have the right to organize and participate in resident and family groups ("councils"). The facility must provide private space for these groups to meet and facility staff may attend only by invitation. The facility must assign a staff member to assist the councils if requested to do so. The facility must listen and respond to grievances and recommended changes in policies or services voiced by resident and family councils.

Under these laws, Connecticut has an impressive array of highly functioning resident councils in its nursing homes and a statewide resident council. Connecticut Department of Public Health surveyors enforce the facility's obligation to respond to grievances rigorously. Facilities must keep a log of all grievances and must demonstrate to the satisfaction of DPH that it has responded to all grievances.

A grievance committee will not improve this process, but will be fraught with confidentiality issues not easily overcome. For example, the participation of a resident on the grievance committee will result in the resident hearing confidential matters concerning other resident(s) which violates HIPPA rules. For these reasons, we urge the committee take no action on the bill.

S.B. No. 176 (RAISED) AN ACT CONCERNING AIR CONDITIONING IN NURSING HOMES.

We are opposed to this bill unless badly needed resources are included to assist Connecticut nursing homes comply with these new mandates. We agree that nursing home residents and their families should have the benefit of a statewide policy on acceptable temperatures in nursing homes. There should be a common expectation for all nursing homes across the state in this regard.

Last year, the Connecticut Department of Public Health reported the results of a survey concerning the incidence of air conditioning in Connecticut nursing homes. In summary, the DPH has found that all Connecticut nursing homes have some measure of central air conditioning and that many nursing homes have central air conditioning either throughout the home, or at least in common areas such as dining areas and hallways, and that the majority of nursing homes have air conditioning in patient rooms.

The DPH findings affirm that Connecticut nursing homes have achieved a very high level of success at keeping their residents comfortable and safe during hot weather

spells. The high incidence of air conditioning in Connecticut nursing homes, in combination with a host of daily best practices, hydration monitoring, and patient-centered care techniques explain the high success. Connecticut nursing homes deserve very high marks for the high level of commitment to the comfort and care of their residents reflected in the DPH survey, even though there is no specific air conditioning or temperature requirement under current statutory or regulatory rules.

However, full compliance with this new mandate will be a significant challenge for many nursing homes. Connecticut nursing homes remain in a period of ongoing financial distress. Medicare reductions in 2012 amount to as high as 16% in many Connecticut nursing homes and additional federal cuts are proposed. This follows a sustained period of nursing home receiverships, bankruptcies, closures, and Medicaid hardship rate relief requests. Today, the Medicaid funding shortfall is \$19 below the cost of providing care to a Medicaid resident per day. With the exception of last session's nursing home provider tax-related marginal rate increase, there has been no Medicaid rate increase since 2007. Even the Fair Rent property adjustment in the Medicaid rate formula, which would only provide partial reimbursement for air conditioning, has been frozen since 2009.

For these reasons, the proposed legislation should include provisions to assure full compliance with the new requirements and to fairly provide reimbursement to facilities when increased costs are experienced.

S.B. No. 177 (RAISED) AN ACT CONCERNING LIABILITY OF NURSING HOME OWNERS FOR NEGLIGENCE AND ABUSE OF NURSING HOME RESIDENTS.

This legislation is unnecessary and demeaning to nursing homes. Abuse of the elderly anywhere is a crime and there is no reason to single out nursing homes from hospitals, residential care homes, assisted living or other settings where the elderly reside. In addition, state and federal regulations currently provide for investigating and reporting alleged abuse in nursing homes. Finally, Connecticut nursing homes are already subject to deficiencies and monetary penalties for failure to protect residents from abuse. For these reasons, we believe the existing regulatory environment already addresses the issue presented in this bill and urge that the committee take no further action.

H.B. No. 5215 (RAISED) AN ACT INCREASING THE PERSONAL NEEDS ALLOWANCE.

We believe the harmful cut to resident personal fund allowance should be restored. In small ways, these funds go a long way toward enhancing the quality experience our residents have in our homes. I understand these cuts were made for financial reasons. However, there is a strong policy basis for their restoration. We urge the committee to advance this legislation.

I would be happy to answer any questions you may have

