LeadingAge Connecticut
Formerly CANPFA

Testimony to the Human Services Committee

Regarding

Senate Bill 232, An Act Extending a Moratorium on Nursing Home Beds

House Bill 5280, An Act Adjusting Nursing Home Rates for Physical Plant Improvements

Senate Bill 30, An Act Implementing Provisions of the Budget Concerning Human Services

Senate Bill 233, An Act Concerning Advanced Payments to Nursing Facilities for Uncompensated Care

Presented by Mag Morelli, President of LeadingAge Connecticut

March 1, 2012

Good afternoon Senator Musto, Representative Tercyak and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a membership association of over 130 mission-driven and not-for-profit provider organizations serving older adults across the entire continuum of long term care. *(LeadingAge Connecticut was formerly known as the Connecticut Association of Not-for-profit Providers for the Aging or CANPFA.)* Our members are sponsored by religious, fraternal, community and municipal organizations and are dedicated to expanding the world of possibilities for aging.

We have submitted written testimony on several aspects of the Governor's proposed midterm budget adjustments related to human services, including those outlined in **Senate Bill 30**, as well as written testimony on several other bills before you today. I would like to speak to a few of them right now. Specifically, I would like to comment on the long term care rightsizing strategic initiative, investment in our nursing home infrastructure, and the crisis within our Medicaid eligibility system.

LeadingAge Connecticut maintains a vision in which every community offers an integrated and coordinated continuum of high quality and affordable long term health care, housing and community based services and supports. The Governor has articulated his outline for the first year of the state's long term care rightsizing strategic plan initiative in his midterm budget proposal and we are pleased to see that he has embraced this vision. We believe this is critical because now is the time for us to look toward innovative solutions, invest our resources, and begin to create the future of aging services.

The Governor's rightsizing initiative begins to offer the tools and resources that are needed to create this future, but we also need to develop a *practical process to facilitate the transformation.* **Specifically, for providers who are seeking to make innovative changes that are in line with our state's strategic initiatives, we propose that the state create a**

***collaborative and efficient* regulatory and reimbursement review and approval process that is *flexible, adaptive and receptive* to individual providers' forward thinking ideas and planning.** The formal process must be timely and coordinated across all relevant state agencies. This type of process would assist and encourage providers of the long term care continuum to adjust, modernize and diversify their models of care to address current and future consumer needs and expectations. The end result will be individual solutions that together make the entire system stronger.

We are pleased that the Governor's rightsizing proposal does not abandon the nursing home segment of the long term care continuum and in fact, it includes resources to assist in modernizing, restructuring, diversifying and/or downsizing existing facilities and services to build a better model of care that will strengthen the full continuum and enable us to meet consumer demand, market needs and the goals of the state's long term care plan.

We cannot afford to continue to ignore the nursing home level of care. We need to actively plan and build a model and infrastructure of nursing home care that makes sense for the needs, demands and expectations of our long term care system moving forward. The proposed grant funding that has been dedicated to this effort will be of great help to many homes, but we also need to **reinstate the fair rent component of the rate structure** so as to encourage and enable continuous capital investment and improvement in all facilities. It is for this reason that we urge the Committee's support of **House Bill 5280, An Act Adjusting Nursing Home Rates for Physical Plant Improvements**

Finally, we respectfully request that the legislature work quickly with the administration to address the excessive delays in the Medicaid eligibility process. The state's Medicaid eligibility system is grinding to a halt and as a consequence, consumers are unable to access services in the community and nursing home providers are incurring millions of dollars in bills owed by the state. We understand that the Commissioner of Social Services has instituted a plan to modernize the eligibility system and we are very optimistic that this will help the situation. However, the full implementation of these changes is at least a year and half away. This crisis simply cannot wait and needs immediate attention. Nursing homes in particular bear a disproportion burden of providing uncompensated care during prolonged periods of pending eligibility status. The solution offered in **Senate Bill 233, An Act Concerning Advanced Payments to Nursing Facilities for Uncompensated Care** would provide these nursing homes with immediate financial relief to assist them through this growing crisis and with no fiscal impact to the state. We urge the Committee to support its passage.

Thank you for this opportunity to testify and I would be glad to answer any questions.

Mag Morelli, LeadingAge Connecticut, mmorelli@leadingagect.org (860) 828-2903
1340 Worthington Ridge, Berlin, CT 06037

Senate Bill 232, An Act Extending a Moratorium on Nursing Home Beds

The Governor has laid out the first year of the state's rightsizing strategic plan in his midterm budget proposal. As part of that plan, the Governor has proposed dedicating significant financial resources to assist in modernizing, restructuring, diversifying and/or downsizing existing nursing home facilities. This investment of resources is greatly needed if we are to create an infrastructure of nursing home care that will meet the needs and demands of our long term care system moving forward.

Since 1991 the state has placed a moratorium on new nursing home beds as a way to cap the number of beds in the state. While the goal was laudable, the moratorium also impeded the construction (or relocation) of new nursing home buildings – even if the overall number of beds was not increased. This has contributed to an aging stock of nursing home buildings. It has also left the geographic distribution of nursing home beds virtually frozen in place since 1991 with only minor (yet expensive) relocations of beds. And it has created a set of strange rules that must be followed to implement bed relocations - such as if you want to add one bed, you need to buy two and then put one out of service. The moratorium has created an expensive, slow and difficult process that has hampered the ability of nursing homes to adapt to consumer demand or demographic need over the last twenty years.

The state's rightsizing strategic plan will require nursing home providers to reassess their buildings, programs and services. This is why we are pleased that the legislature amended the moratorium statute last session and will now allow for "existing Medicaid certified beds to be relocated to a new facility to meet a priority need identified in the [rightsizing] strategic plan." If it were not for this change in the statute, LeadingAge Connecticut would have had to oppose the extension of the nursing home bed moratorium. Having said that, we do not feel strongly that it must be extended and believe that an adequate certificate of need process would provide the necessary regulatory oversight to control and monitor bed supply. *We also propose that nursing homes be allowed the option of taking beds out of service temporarily for the purpose of establishing a new rate and service model and that a process be established for bringing the beds back on line at a later date if there is a demonstrated need.*

House Bill 5280, An Act Adjusting Nursing Home Rates for Physical Plant Improvements

LeadingAge Connecticut strongly supports this bill to reinstate the fair rent component of the nursing home rate structure. Under current statute, the Department of Social Services is required to incorporate an adjustment to accommodate improvements to real property (referred to as a "fair rent adjustment") when setting annual nursing home rates. Unfortunately, fair rent increases have been frozen for three years and will remain frozen through the next fiscal year unless the legislature takes action to reinstate it as is proposed in this bill.

As we stated earlier, we cannot afford to continue to ignore the nursing home infrastructure. We need to actively plan and build a model of nursing home care that makes sense for the needs, expectations and demands of our long term care system moving forward. This includes capital improvements, building design and resident furniture and equipment that will provide the high quality of skilled nursing care that our most frail elderly will need and demand. The proposed state and federal grant funding that has been dedicated to this effort will be of great help to some homes, but we also need to **reinstate the fair rent component of the rate structure** so as to encourage continued capital investment and improvement in *all* facilities.

The fair rent rate adjustment option will be critical to a plan of promoting diversification and renovation beyond the limited $10 million for grants proposed in the budget. Fair rent rate adjustments are an investment by the state that is matched by federal funds and spent in the local economy on construction work, repairs and facility improvements. In contrast, the lack of fair rent funding restricts the ability of providers to finance improvements to their aging facilities and discourages those with working capital from spending it. *We urge your support of the reinstatement of rent rate adjustments for nursing home capital improvements, investments and movable equipment.*

Senate Bill 233, An Act Concerning Advanced Payments to Nursing Facilities for Uncompensated Care

LeadingAge Connecticut strongly supports this bill which will provide immediate relief to the nursing homes that are experiencing financial crises due to excessive delays in the Medicaid eligibility process. The Medicaid eligibility system in this state is grinding to a halt and as a consequence, consumers are unable to access services in the community and nursing home providers are incurring millions of dollars in bills owed by the state. We understand that the Commissioner of Social Services has instituted a plan to modernize the eligibility system and we are very optimistic that this will help the situation. However, the full implementation of these changes is at least a year and half away. This crisis simply cannot wait and requires immediate action.

Nursing homes in particular bear a disproportion burden by providing months and sometimes years of uncompensated care during prolonged periods of pending eligibility status. Our member nursing homes are reporting pending payments owed by the state that range in amounts from hundreds of thousands of dollars up to and over a million dollars per nursing home. Nursing homes cannot continue to function with this restriction on cash flow and there is a risk that quality of care will soon be compromised. *The legislature must intervene and provide nursing homes with the crucial financial relief that this bill will provide for during extended periods of pending Medicaid eligibility*. This financial relief would have no fiscal impact to the state as it would be an advance of Medicaid payments that are already owed to the facilities.

Senate Bill 30, An Act Implementing Provisions of the Budget Concerning Human Services

REBALANCING THE STATE'S LONG TERM CARE SYSTEM

Connecticut must *strengthen* and *invest in* our system of long term care and provide the opportunity and environment for individual providers to transform our system of aging services one solution at a time. LeadingAge Connecticut proposes that through the rightsizing initiative, the state create a collaborative and efficient regulatory and reimbursement environment that is adaptive and receptive to individual provider's forward thinking ideas and planning. Such an environment would encourage providers of the long term care continuum to adjust, modernize and diversify their models of care to address current and future consumer needs and expectations. ***The time is now to look toward innovative solutions and begin to create the future of aging services.***

Adequate Rates of Reimbursement

Right now Medicaid is the primary public source of financing for all long term care. Today we must deal with the fact that Medicaid rates do not come close to meeting the costs of providing

long term care, either in the nursing home or in the community. *Our goal as a state must be to work toward an efficient, high quality, and cost effective system that can provide adequate rates of reimbursement that meet the cost of providing care throughout the long term care continuum.*

The state has adopted a long term care plan with a goal of rebalancing the system and providing a choice for individuals seeking long term care. LeadingAge Connecticut supports this goal, but experience shows that while rebalancing can moderate the growth of long term care costs, it does not eliminate the growth. Costs will continue to rise through the entire long term care system – and the state needs to recognize this and invest in it. This is an essential element to the success of a balanced long term care plan and the only way we can maintain the commitment to those who rely upon the Medicaid system for their long term care needs.

Electronic Medical Records

The Governor's proposals do not specifically address the need to assist providers in purchasing electronic medical record systems, but the use of electronic medical record and information systems is essential to the success of the rightsizing strategic plan and the transformation of our Medicaid system, both of which are being built around a coordinated, person centered model of care. The long term care provider network is lacking in resources to equip themselves with full electronic medical records and this pressing need *must be placed* on the state's strategic radar screen.

Changing Medication Administration

LeadingAge Connecticut is accepting of the concept of expanding the use of medication technicians, but only if implemented through a policy that ensures quality care and that is based on the person centered model of care that we are striving for in our rebalancing effort.
In addition:

- The use of medication technicians must not be mandated for every patient.
- We strongly encourage the development of a standardized training curriculum and certification process that would be acceptable throughout the long term care continuum.
- To develop a qualified workforce, the training must be offered through the current state education system, either through the secondary schools and/or community colleges. (Currently it is the provider's responsibility to train the technician and the certification requirements vary by provider type.)
- We would be cautiously supportive of expanding the medication technician concept to the nursing home level of care if it were not a mandated requirement.

If medication technicians are utilized in a person centered model of home care, the higher acuity, higher need home care clients will most likely continue to be care planned to require a licensed and specially trained nurse to administer their medications. At a time when you are increasing the overall acuity level of a home care nurse's case load, it does not make any sense to cut the reimbursement rate for this licensed and specialized function. We *strongly object* to the proposed reduction in the reimbursement rate for medication administration by a licensed nurse.

LeadingAge Connecticut *supports* the increased use of assistive technology such as medication reminders and automatic pill dispensers. In-home technology will most certainly be an important factor in the future of aging services.

Standard Assessment Tool for Use across the Continuum

LeadingAge Connecticut *supports* the use of funding to crate a standardized level of care assessment across the long term care continuum, but cautions that it must coordinate with the

currently required assessments and must be fluid enough to allow for future adaption and modification as practices, systems and requirements evolve. We are reminded of the stagnant and inadequate W-10 transfer forms that health care providers have wrestled with over the years and we should work to avoid a similar situation with the assessment tool.

Home Modifications
LeadingAge Connecticut *supports* funding home modifications to allow individuals to remain in the community and in their own homes. Initiatives such as this reinforce the need to view long term care as not just skilled nursing, but as a full continuum of services and supports that begins in one's own home.

Expanding the Private Pay Assisted Living Pilot
LeadingAge Connecticut *supports* expanding the private pay assisted living pilot as it is has proved to be a successful model of a public/private partnership in long term care financing. This program allows an individual who has made a private assisted living community their home, to remain in their home when their resources are depleted. Through a partnership with the individual and/or their family, the state is able to pay for the assisted living services through the Home Care Program while the housing expenses are paid for privately. It incentivizes the use of private financial resources and prevents premature nursing home placement.

Hospital Discharge Information System
While LeadingAge Connecticut *supports* enhancing the hospital discharge process through improved information technology, ***we oppose*** the shortsighted theory that patients need to be steered away from the nursing home. We believe that the new opportunities being presented through federal health care reform and the rightsizing initiative will allow nursing home providers to develop innovative and cutting edge services for individuals who are transitioning back to the community upon hospital discharge. Therefore we request that the discharge technology be developed with an open mind so as to allow for all opportunities and levels of care that provide appropriate and proven manners of transitional and rehabilitative care.

SUPPORTING AN INDUSTRY IN TRANSITION: NURSING HOMES

Nursing Home Workforce Retraining
LeadingAge Connecticut supports the proposal to dedicate resources to developing and retraining the long-term care workforce.

Nursing Home Diversifying, Downsizing and /or Modernization
LeadingAge Connecticut is very pleased that the Governor has not abandoned the nursing home segment of the long term care continuum and has proposed resources to assist in modernizing, restructuring, diversifying and/or downsizing existing facilities and services to build a better model of care that would strengthen the full continuum to meet consumer demands, market needs and the goals of the state's long term care plan.

The proposed investment of state and federal funds can help nursing home providers, professionals in the field of long term care, evaluate their current business models and if necessary, restructure, diversify, or redesign their buildings and campuses. Just as importantly, it will allow for the modernization of nursing homes so as to better provide this necessary level of service in a model of care that consumers are demanding.

To facilitate this rightsizing initiative and to encourage providers of the long term care continuum to adjust, modernize and diversify their models of care to address current and future consumer needs and expectations, *we propose that the state create a collaborative and efficient regulatory and reimbursement environment that is adaptive and receptive to individual provider's forward thinking ideas and planning.* For providers who are seeking to make innovative changes that are in line with our state's strategic initiatives, the state should **formalize a process** that would provide a coordinated, collaborative and timely approval process across all relevant departments. *In general, the state must work to streamline and coordinate all regulatory processes and adapt to a more integrated system of care delivery.*

We cannot afford to continue to ignore the nursing home level of care that is and will be needed in the future and therefore the call for modernization of the state's nursing homes is crucial. We need to actively plan and build a model and infrastructure of nursing home care that makes sense for the future needs and demands of our long term care system moving forward. **Modernization efforts** will allow nursing homes to create the system and services that are desired by consumers and which are required in the new system of health care reform. Greenhouse models, culture change modifications, energy efficiencies, electronic health records, transportation systems and other capital improvements should be allowable within the system of grants, loans and funding.

The proposed state and federal funding that has been dedicated to this effort will be of great help to many homes, but we also need to encourage continued capital investment and improvement in all facilities to ensure that they remain vibrant and viable buildings. This continued quality improvement and physical plant upkeep can only be maintained by reinstating the fair rent component of the rate structure.

The Unbalanced Burden of Uncompensated Care: Strengthen Recovery Efforts and Encourage Use of Private Resources Proposal

The rightsizing plan must recognize the current disproportionate financial burden that the nursing home bears within the continuum of long term care services. The nursing home is the only segment of the continuum that is required to provide unlimited periods of uncompensated care to pending Medicaid residents, resident who have inappropriately transferred assets, or residents who are withholding applied income payments. And Connecticut is one of only a few states that still have a waiting list law.

We cannot create a balanced system if only one segment of it bears the highest burdens. The strategic plan must address the current system's incentives to utilize the nursing home as the placement for individuals with no payment source and it must seek to provide opportunities for nursing homes to plan models of care that attract payer sources other than Medicaid.

We propose that the state take steps to ease the burden of uncompensated care in the nursing home by improving the eligibility process, strengthening recover efforts with regard to nursing home residents and modifying regulations that will promote the use of private resources to fund nursing home care rather than encouraging a reliance on Medicaid funding.

- Over the last two years, more and more nursing homes have reported instances of resident family members misappropriating resident social security and pension checks and **refusing to pay over this "applied income" to the facility** – even after Medicaid eligibility is granted with specific instructions to pay applied income. Sometimes nursing homes find that family members have misappropriated resident assets. In these cases, reports and referrals are made to law enforcement, but the facility has no recourse.

Because nursing homes may not discharge residents who are Medicaid recipients, the facility must continue to care for the resident without getting paid in full for the services provided.

- The troublesome delays in processing Medicaid applications has resulted in applicants being deemed ineligible for several months due of the ***delayed discovery* of a single disqualifying asset** that triggered ineligibility month after month while the application sat pending at DSS. The nursing home is left uncompensated for those months of ineligibility.

- Similarly, now that the look back period is five years and the asset transfer penalties have become stricter, nursing homes shoulder a heavier burden of **uncompensated care during imposed penalty periods**. Most nursing home residents are not admitted to the facility as Medicaid recipients. The typical resident spends down whatever assets he or she had upon admission to pay for care before applying for Medicaid. If a determination is made that the resident inappropriately transferred assets and a penalty is imposed, then the resident remains in the facility with no source of payment. In these cases, it is impossible for the facility to discharge the resident as no other facility would accept a resident under these circumstances without a source of payment.

- Finally, Connecticut has some of the only **waiting list regulations** in the nation and they are designed to require that nursing homes admit residents who have qualified for Medicaid. While this is a laudable policy, it does not provide any incentive for prospective residents to maintain their private financial resources to pay for nursing home care.

We recommend the following additional proposals for the state:

- **Assist in the Collection of Misappropriated Resident "Applied Income" Funds**

- **Address the Issue of Missing or Intentionally Transferred Assets**
  - Rectify current Medicaid eligibility rules that require an ineligibility determination for a nursing home resident who cannot locate a missing asset, even though the resident otherwise meets eligibility criteria.
  - Rectify current Medicaid eligibility rules so a that a disqualifying asset discovered by DSS after a delay in processing an application cannot be used solely as a means of determining ineligibly for the time period of the delay.
  - Require DSS to adopt regulations to permit nursing facilities to receive financial relief, subject to certain conditions, if the facility must continue to care for a resident subject to a transfer of assets penalty period. Such financial relief will authorize DSS and the Attorney General's Office to legally pursue individuals who receive improperly transferred assets.

- **Encourage the Use of Private Resources to Fund Nursing Home Care by Modifying the Waiting List Requirements (§ 17b-550)**
  - Current state requirements mandate that a nursing home maintain an official waiting list subject to state regulations in a bound book. If a nursing home has a vacancy, it must take the next appropriate resident on the waiting list, unless the home has a private pay census of less than 30%. If the nursing home has a percentage less than 30%, it instead may go to the next *self-pay* person on the waiting list. *Suggestion: Change the current waiting list waiver conditions from 30% self-pay to 49% self-pay. Add to it that regardless of the ratio of payer mix, if at the time of vacancy a nursing home has residents who are either Medicaid*

pending or in a Medicaid penalty period (and therefore the nursing home is not receiving payment for their care at the time of the vacancy), then the nursing home would be permitted to go to the next self-pay person on the waiting list. This could be scaled to 1 such resident for a home of 120 beds or less and 2 for a home of 121 beds or more.

HOME AND COMMUNITY BASED SERVICES

10% Reduction in the Alzheimer's Respite Program

LeadingAge Connecticut *opposes any cut to the Alzheimer's Respite Program.* Family caregivers have an important role to play in the long-term care system, but the challenges facing them are great. Connecticut's unpaid caregivers provided over $1 billion worth of care to relatives and in return, they are called upon to sacrifice lost wages and to face significant physical and mental health risks. The risks of poor health and premature death are greatest among those who care for relatives with Alzheimer's disease. In order to continue reaping the benefits that family caregivers provide to older adults, we as a society must increase our support for them. A crucial aspect of that support is funding for respite care and we must not deplete those resources.

LeadingAge Connecticut, 1340 Worthington Ridge, Berlin, CT 06037
www.leadingagect.org, mmorelli@leadingagect.org, (860) 828-2903