Dannel P. Malloy
Governor

State of Connecticut
Department of Developmental Services

Terrence W. Macy, Ph.D.
Commissioner

Joseph W. Drexler, Esq.
Deputy Commissioner

Department of Developmental Services

Testimony before the Labor and Public Employees Committee

March 13, 2012

H.B. No. 5433 AN ACT CREATING A PROCEDURE FOR PERSONAL CARE ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE.

Senator Prague, Rep. Zalaski and members of the Labor and Public Employees Committee, I am Terrence W. Macy, Ph.D., Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to submit testimony on House bill 5433, An Act Creating a Procedure for Personal Care Attendants to collectively Bargain with the State. This bill would establish collective bargaining rights for personal care attendants (PCAs) and other individuals who provide certain types of "nonprofessional" care to persons with disabilities or the elderly under several home care programs, including two Home and Community Based Services (HCBS) Medicaid Waivers administered by the Department of Developmental Services (DDS), the Comprehensive Waiver and the Individual and Family Supports Waiver.

House Bill 5433 would create the Personal Attendant Quality Home Care Workforce Council, composed of state agency representatives and home care consumers. The Council, with the assistance of the Department of Social Services (DSS), would have numerous responsibilities, such as recruitment of PCAs, development of training and education for PCAs, providing referrals of PCAs to consumers, and establishment of standards for wages, benefits and conditions of employment. Finally, the Council would have the authority to bargain and enter into agreements with the organization representing PCAs over the terms and conditions of participation in the programs specified in Section 1 of the bill.

The department has concerns about the resources and expertise of the Council to perform some of the assigned functions, including collective bargaining. DDS understands that the administration is willing to work on the language to address these concerns. Also, to the extent that this legislation may require more duties for the fiscal intermediaries, contract increases may be needed.

Phone: 860 418-6000 ♦ TDD 860 418-6079 ♦ Fax: 860 418-6001
460 Capitol Avenue ♦ Hartford, Connecticut 06106
www.ct.gov/dds ♦ e-mail: ddsct.co@ct.gov
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We would like to highlight our concern that services to our clients not be compromised as a result of any collective bargaining agreement reached between the Council and the organization representing the PCAs. Any increase in costs to these programs, without a corresponding appropriation, would result in a reduction in direct services to persons with intellectual disability. It is essential that the bill contains language that would require an additional appropriation by the General Assembly in order to implement and carry out all of the responsibilities contemplated in this bill.

Additionally, DDS has always been concerned about the rights of consumers and over the years has developed a responsive background check, training and supervision protocol.

Finally, we suggest that the committee consider assuring that the majority of the Council members be consumers of services.

Again, thank you for the opportunity to offer comments on this legislation.