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Testimony Opposing HBO5499

Honorable Chairpersons, Honorable Members of the Committee:

Thank you for the opportunity to testify before you this morning.

I am an award-winning journalist and business book author currently writing a book about the for-profit hospice care sector entitled PREDATORS AT DEATH'S DOOR. In that capacity, I have been engaged in researching the hospice care industry in the U.S. and that research brings me here today to urge you not to pass Raised Bill 5499. Proponents of 5499 will tell you that they need the proposed reductions to the regulations governing hospice care in order to provide better access to hospice in this state. But in fact, I believe that 5499 has been raised for one reason and for one reason only: to enable the for-profit hospices currently operating in our state to reduce benefits and services to one of our most vulnerable populations--the terminally ill—in order to take as much of every hospice benefit dollar as possible away from the patients—whose benefit it is—and put it into the pockets of their shareholders.

Proponents of 5499 claim that Connecticut ranks 51st in the nation in access to hospice care because the average length of stay in hospice care in Connecticut is 49 days, compared to a “national average” of 71 days. But here's the problem with their “access” argument. The Department of Justice has launched major fraud investigations into at least four of the for-profit hospices currently lobbying you to reduce the regulations, accusing them of massive schemes to defraud Medicare by enrolling patients who are not terminally ill into hospice and then re-certifying them for the Medicare hospice benefit every 60 days. In a whistle blower suit recently lodged against the biggest for-profit provider of hospice both nationally and in Connecticut, Vitas Innovative Hospice, it is alleged that over 22% of their patients in one office had been continuously receiving hospice care for over 500 days! Because some of the for-profits have been gaming the Medicare system in this way for years, they have artificially inflated the “national average” they are basing their entire access argument upon. Take the non-terminal patients they are enrolling out of the equation and suddenly the for-profits lose their access argument. *The Journal of the American Medical Association* agrees citing that, “Patients admitted to for-profit hospices typically stayed there longer, were likelier to remain in hospice for more than a year, and were more likely to have dementia and other non-cancer diagnoses.” So does the National Hospice and Palliative Care Association which cites that the length of stay figure has been drawn higher by the 12% of patients who remain in hospice longer than six months. In other words, those who are not terminal and have been fraudulently admitted to hospice. Current statistics show that 35.3% of hospice patients--the largest cohort nationally-- spend 7 days or less in hospice and over half die within 19.7 days of admission.

The fact of the matter is that citizens of Connecticut enjoy better access to hospice care than any state in the union save one. It is also a fact that anyone can open a hospice residence in this state under the existing regulations which better protect patients. So, if as they claim, the proponents of 5499 are so vitally concerned about our citizens access to hospice care, why haven't they opened the facilities they propose already? The answer is that this bill is not about access. It is about getting you to reduce the services and benefits they are legally required to provide to patients and their families so that they can

increase their profit margins.

A far more frightening impediment to hospice access in this state is the rampant violation of Federal Stark laws which mandate that all discharge planners provide patients with a list of the names of at least three providers. Unfortunately, Justice Department records show that for-profit hospices have engaged in massive kickback schemes to ensure that patients are referred only to their own facilities. Billed out as "incentive bonuses" and "consulting fees," for-profits typically pay doctors between 4-5k a month to refer only to their facilities. The Office of the Inspector General at the Department of Health and Human Service will tell you, however, that wherever the Medicare or Medicaid programs are concerned, kickbacks in cash or in kind are a felony punishable by fine and up to 5 years in Federal prison. Unfair trade practices such as this are burying Connecticut's not-for-profit hospices, because kickbacks ensure that not-for-profits are almost never on discharge planners lists. And yet no one in this state is lifting a finger to stop the Stark Law violations.

5499 proposes to set up hospice residences for "hospice home care services." They further propose to do this in houses of 4 to 6 patients each. Terminally ill patients want to be able to die in their own homes and under our existing regulations they can. But staffing continuous home care is expensive. The Hospice Care Alliance cites another fraudulent practice that many for profit hospices are already engaged in: Deliberately under-staffing their home care divisions in order to manipulate dying patients into facilities they control where care is less expensive. Because their proposal is to open hospice residences in small houses all over the state, they are then still entitled to collect the higher reimbursement rate for caring for a patient in their own home. Are the patients being cared for at home where they want to be? No. Are they ever told, "We don't provide home care hospice?" No, because that would be illegal. What they say is, "Oh we're so sorry but there's a nursing shortage or an aide shortage and we simply can't find anyone to come to you in your home. You'll have to die in one of our hospice residences." And dying patients and their families, overcome by the stresses of imminent death cannot muster the resources to fight the hospice's deception. Again, ladies and gentlemen, 5499 is not about access, it is not about patient care. It is about profits.

Finally, 5499 asks that the hospices themselves develop the standards for the licensure and operation of the homes they propose in conjunction with the Commissioner of Public Health. This proposal is perhaps the most ludicrous of all since it obliterates the checks and balances of our government. The people put their trust in the government to protect them from certain harm. Even if we were not talking about a scandal-ridden industry being prosecuted by the Department of Justice, the SEC and the Office of the Inspector General at The Department of Health and Human Services, at no time should the regulated industry be given the position of determining the standards and regulations of their industry. They are the regulated class. They are not the regulators! It is an embarrassment to our state that anyone would even suggest such an obvious breach in how our government is designed to function.

In conclusion, 5499 is a barely concealed attempt to get you to increase the profit margins for greedy for-profits who will then cannibalize patient care by taking away benefits and services our Federal government is paying for them to have. Our government is not handing out hospice benefits so for-profits have a better day on Wall Street. The issue here is patient care for a vulnerable population who cannot be expected to fight off fraud in their final hours. Ask yourselves why the hospices arguing for 5499 have not already opened their facilities? The answer is simple. Because they would be forced to pay for the quality care for patients that our government requires them to provide. 5499 is a prescription for disaster for patients and their families and you have a moral obligation to see that hospice patients in Connecticut receive the quality care they are entitled to using the benefits they paid for. Please say No to 5499 and send the profit-vultures packing. Thank you for your kind attention.