February 5, 2013

Testimony of Russell Schwartz, Director of Operations at Avon Health Center and West Hartford Health and Rehabilitation Center, before the Select Committee on Aging

Good morning Senator Ayala, Representative Serra and to the members 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 for my facilities and on behalf of the Connecticut Association of Health Care Facilities (CAHCF), our state's one hundred and sixty-seven (167) 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. 519 (RAISED) AN ACT CONCERNING TRAINING NURSING HOME STAFF ABOUT RESIDENTS' FEAR OF RETALIATION.

This is well-intended legislation which can be efficiently and effectively implemented by including any new fear of retailiation 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 this clarification be included in the bill.

Specifically, add at the beginning of line 94: Within the curriculum of the required resident rights' training,". With this clarification, the bill has our support.

H.B. No. 5763 (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. We favor stronger enforcement of the existing grievance process rules, rather than a new duplicative grievance committee process.

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. More time-consumer process will be needed to address these HIPPA issues. For these reasons, we urge the committee take no action on the bill.

***H.B. No. 5766 (RAISED) AN ACT CONCERNING NURSING HOME COMPLIANCE WITH COMFORTABLE AND SAFE TEMPERATURE STANDARDS.**

We are opposed to this bill because the Connecticut Department of Public already has ample authority to enforce state and federal law for any violations of safe temperature requirements in Connecticut nursing homes. It would be much more effective to provide badly needed resources to assist Connecticut nursing homes maintain or improve air conditioning systems. Any new mandates or consent requirements should have a corresponding Medicaid reimbursement provision.

On this issue, it should be noted that in 2011 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 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 in 2013. This follows a sustained period of nursing home receiverships, bankruptcies, closures, and Medicaid hardship rate relief requests. Today, the Medicaid funding shortfall is $13 below the cost of providing care to a Medicaid resident per day. With the exception of recent nursing home provider tax-

related small rate increases, there has been no Medicaid rate increase since 2007. In this regard the Fair Rent property adjustment in the Medicaid rate formula should be fully restored to reflect the costs of quality improvements in our nursing homes, including costs associated with air conditioning.

H.B. No. 5761 (RAISED) AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.

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. 5760 (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 ehancing the quality experience our resident 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 legisaltion.

I would be happy to answer any questions you may have