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**TESTIMONY OF KEVIN BROPHY,
IN OPPOSITION TO RAISED BILL No. 6543:
AN ACT AMELIORATING THE DEBT OWED TO NURSING FACILITIES
MARCH 5, 2013**

My name is Kevin Brophy and I am the Director of Elder Law for Connecticut Legal Services, a non-profit agency that is the largest legal aid organization in CT. My testimony is submitted on behalf of CT's low income elderly and disabled clients, who reside in skilled nursing facilities.

I am testifying in opposition to Raised Bill No. 6543. Under state statute (Conn. Gen. Stat. § 19a-535), nursing homes can only discharge a resident based on a few, specific grounds. This proposal adds an additional ground: the failure of the resident to pay their applied income for more than sixty days.

Applied income is the amount calculated by the Department of Social Services that the resident must pay the facility, after determining that the resident is eligible for Medicaid. Generally, a resident on Medicaid is responsible for paying their monthly income to the nursing home, after certain deductions are made, including a personal needs allowance, a community spouse allowance, or a home maintenance allowance. The state and federal government then pays the balance of the bill.

I am against this bill for the following reasons:

1. It is an extreme measure directed at a vulnerable population who may not be at fault- Residents of nursing homes often have serious health problems, or have dementia or cognitive impairments. Many times it is not the fault of the resident that the applied income is not getting paid. Instead, he or she is relying on others to handle their financial affairs, or there is a delay in processing the Medicaid application, or there is a disagreement between the resident and the Department of Social Services over the amount of the applied income. To allow discharge under these circumstances is unconscionable, especially when the reason for failing to pay the applied income might be the fault of the nursing home or other less harsh options may be available.

2. Nursing homes should not be able to discharge residents when non-payment of the applied income may have been the fault of the facility- Nursing homes may not have adequately explained to residents and their representatives their duties as to applied income. For example, the resident may have continued to pay his or her basic community expenses, such as the rent.



After several months, the resident is finally notified by the Department of Social Services that the resident is eligible for Medicaid and informed of the amount of applied income required to be paid to the nursing home. But, at that time, the resident does not have the income to pay the facility for the previous months. In addition, the facility could have assisted the resident in applying for the “home maintenance allowance” which would have reduced the amount of the applied income. It would be a win- win situation. Nursing homes would get paid and the resident would be able to keep their home and save the state money by not having to remain in an institution long term.

3. Nursing homes have other options to collect applied income- A facility has other options that are less punitive and harsh than discharging fragile residents from their home. Nursing homes may request that the resident’s income get sent directly to the facility. It can also file a Petition in Probate Court to have someone appointed to handle the person’s financial affairs. We also have been negotiating with Leading Age to allow the nursing home to sue the resident or someone who has legal control of the resident’s finances.

Please reject Raised Bill No. 6543. There are better, less draconian options to address this problem than discharging fragile residents from nursing homes.

Thank you.