

March 5, 2013

Written testimony of Patrick McDonnell, Administrator, Silver Springs Care Center Concerning:

H.B. No. 6543 (RAISED) AN ACT AMELIORATING THE DEBT OWED TO NURSING FACILITIES.

Good afternoon Senator Slossberg, Representative Abercrombie and to the members of the Human Services Committee. My name is Patrick McDonnell. I am the Administrator at Silver Springs Care Center in Meriden, Connecticut. Silver Springs Care Center is a longstanding provider of nursing care in the Meriden and surrounding communities with 159 beds and over 180 employees. I am here this afternoon to ask the Human Services Committee to support H.B. No. 6543 (RAISED) AN ACT AMELIORATING THE DEBT OWED TO NURSING FACILITIES. This is legislation being advanced by the Connecticut Association of Health Care Facilities (CAHCF), of which our organization is a member.

H.B. No. 6543 (RAISED) AN ACT AMELIORATING THE DEBT OWED TO NURSING FACILITIES.

Section 1 of this legislation addresses the difficult situations that arise when a nursing facility resident or designated responsible party fails to pay their required share of the cost of nursing home care, commonly referred to as “applied income. Typically this amount is available to the resident from monthly social security, retirement benefits, and other income sources, and is required to be paid to the nursing home. Specifically, this proposal will allow nursing home facilities to transfer or discharge nursing home residents who fail to pay applied income to the facility for more than sixty days. At the outset, I want to state that it’s our nursing home’s strong desire to never get to this point. We so much favor collecting these amounts than ever getting to the point where we are considering transfer and discharge.

While it is the responsibility and legal obligation of the resident to remit monthly the calculated applied income amount, too often the resident or designated responsible party fails to meet his or her obligations to the nursing home. Medicaid payments to nursing homes assume the collection of applied income amounts without respect to whether they are actually paid. In the most egregious cases, family members regrettably receive and dispose of the proceeds of the monthly income amounts intended for the nursing home.

When this happens, nursing homes are significantly harmed because they are forced to provide care that is unreimbursed. Effectively, nursing homes end up providing “free care.” As a result, nursing homes must resort to costly collection efforts, which are not reimbursable by the state. Most often, such activities are not worthwhile because social security amounts may not be attached as a means to satisfy a court ordered judgment for the repayment of debt. Even more costly and difficult to prove are the cases of fraud, where a family member or other person with fiduciary duties has stolen the funds intended for nursing home care. In most cases, only the

resident can bring the action for recovery, but they are most reluctant to do so against family members.

At our facility, we currently have approximately \$75,000 in outstanding Applied Income over sixty days. We pursue every avenue and opportunity of working with the resident or designated responsible party in having the applied income assigned to the facility before seeking legal consultation and collection services, because, again our intention is not to transfer or discharge the resident from the facility.

Finally, we endorse and appreciate the leadership of the Human Services Committee Chairs, Senator Slossberg and Representative Abercrombie, in addressing similar Applied Income issues in related legislation, **H.B. No. 6413, AN ACT CONCERNING MEDICAID ELIGIBILITY AND THE IDENTIFICATION AND RECOVERY OF ASSETS.**

Section 2 of the legislation adds nursing homes to the current list of providers whose expenses it is the joint duty of spouses to pay. Section 46b-37 currently obligates spouses to support one another and their family and makes them jointly liable for, among other things, the reasonable and necessary services of physicians, dentists and hospitals, but does not require such joint duty and obligation for payment of services provided to the spouse by nursing homes. There is no reasonable basis to exclude nursing homes from the spousal support obligation and, in the aftermath of the Connecticut Supreme Court's decision in *Wilton Meadows v. Coratola*, 299 Conn. 819, 14 A.3d 982 (2011), the prospect of a spouse unfairly refusing to provide support for the care their spouses received in a skilled nursing home or rehabilitation center will be a common event unless the state legislature makes clear under Connecticut law, as proposed here, that spouses have a joint duty and liability to provide support for nursing home expenses.

In closing, Connecticut nursing homes remain in a period of ongoing financial distress. Medicare reductions in 2012 were as high as 16% in many Connecticut nursing homes and additional federal cuts are proposed this year. A 2% Medicare sequestration cut, unfortunately, is now set for April 1, 2013. On average, providers are paid today \$14.73 per patient day less than what it costs to care for our residents. For the typical nursing facility, this represents over \$400,000 per year in unfunded costs. There has been no rate increase in the system since 2007, except for increases made possible by increasing the user fees paid by nursing homes themselves (these increase are proposed for reduction in this budget).

This follows a sustained period of nursing home receiverships, bankruptcies, closures, and Medicaid hardship rate relief requests. Yet there are 1 million baby boomers in Connecticut. There are 600,000 residents in Connecticut over the age of 60. Connecticut's aging population is among the oldest in the Nation. Much is being asked of our nursing facilities, and more will be, given the dramatic aging of our population, long term care rebalancing, rightsizing and a range of home and community based service initiatives. These changes will mean that the acuity and numbers of nursing home residents will continue to rise measurably as our population ages, even as more residents choose home and community based environments to receive their care.

Nursing homes will remain a critical component in the continuum of long term care, but we need the help with measured proposals in this challenging environment. As such we urge you to adopt HB 6543.

I would be happy to answer any questions you may have.