

Testimony of Walter Glomb to the Appropriations Committee on April 15, 2014

Good morning Senator Bye, Representative Walker and members of the Appropriations Committee. My name is Walter Glomb. I live in Rockville. I am a parent of an adult who has Down syndrome and currently receives Individualized Supported Employment services from the Connecticut Department of Developmental Services.

I am here on behalf of my son, other individuals who live with intellectual disabilities and their families who may self-direct DDS Waiver services to **OPPOSE** S.R. No. 21 and H.R. No. 11 RESOLUTIONS PROPOSING APPROVAL OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PERSONAL CARE ATTENDANT WORKFORCE COUNCIL AND THE NEW ENGLAND HEALTH CARE EMPLOYEES UNION (DISTRICT 1199, SEIU).

Despite assurances to the contrary, I am concerned that this Agreement will impair the highly individualized services that families have arranged with their private employees under the DDS Medicaid Waiver. I believe that most of the "personal care assistants" that are currently paid through the DDS Waivers will not receive any wage increases under this Agreement while they will be required to pay a fee to the Union and that the Individual Budgets for DDS clients will not be increased to cover the few retroactive increases.

This Agreement began as a controversial Executive Order and the law was ultimately passed over the objections of individuals who live with intellectual disabilities. This legislation was OPPOSED by the Council on Developmental Services; (testimony attached)
OPPOSED by the Office of Protection and Advocacy; (testimony attached)
OPPOSED by The Arc Connecticut; (testimony attached)
OPPOSED by the Connecticut Council on Developmental Disabilities. (testimony attached)
The Governor's Personal Care Attendant Quality Home Care Workforce Council wrote that individuals who are at the highest level of need may suffer a reduction of hours. (attached)

Following these objections, the original bill failed to receive a favorable vote in the Labor Committee. Nevertheless the language ultimately passed through a strike-all amendment in the 2012 General Assembly.

As you know, we are very concerned with current shortfalls in the DDS budget. The Office of Fiscal Analysis has estimated that the DDS budget is already short by about \$182 million if it is to meet the needs of all the eligible citizens who are now on waiting lists. Against this deficit, your committee has proposed adding about \$4.4 million to the FY 2015 budget for residential placements of individuals currently living with caretakers who are 70 years of age or older and an additional \$750,000 for families caring for their loved ones at home.

Where are the funds for this new labor Agreement? ***Please do not vote for these resolutions*** until you add sufficient funds to the DDS budget to cover retroactive wage increases and insure that no worker is left with lower net income after their mandatory payments of Union fees.

Thank you.



State of Connecticut
Department of Developmental Services
Council on Developmental Services

DDS

Dannel P. Malloy
Governor

March 13, 2012

Senator Prague, Representative Zalaski, and Members of the Labor and Public Employees Committee,

Testimony to the Labor and Public Employees Committee

Re: HB NO. 5433 - AN ACT CREATING A PROCEDURE FOR PERSONAL CARE ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE

My name is James Heffernan and I serve as Chairman of the Council on Developmental Services. The Council, under the General Statutes of Connecticut, is charged to *"recommend to the Governor and to the General Assembly such legislation as will in its judgment improve the care and training of persons with intellectual disability. C.G.S. Section 17a-270 as amended by PA 11-16.* We are writing today to advise you of serious concerns that we have related to both Executive Order # 10, which gave rise to the captioned bill, and HB # 5433 itself.

We urge you to oppose the implementation of Raised Bill # 5433 since we feel that it will endanger the level of service that consumers currently receive and erode the "Safety Net" that the Executive and the Legislative Branches have worked to protect.

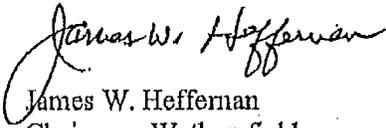
The Council strongly believes that the relationships that exist between consumers and the independent staff that they directly employ should be protected, remain private and not be interfered with by executive order or by legislation. Consumers should control their own lives and have the right to choose whom they will employ...especially due to the intimate nature of services that are often provided.

We have a system in place that is effective, efficient and extremely workable. Unfortunately, the proposed bill will not enhance today's state funded program. Rather, it will add bureaucracy and bloat costs. As a result, self determination, individual choice and ultimately the level of support services delivered will be curtailed significantly if the concept of forcing representation and collective bargaining for Personal Care Attendants (PCAs) is implemented. It is the Council's judgment that this is not necessary and, thus, it is strongly opposed to HB # 5433.

Medicaid waivers dictate allowable pay rates for PCAs; this is an important issue that the legislature must be aware of as decisions are made. Due to current economic circumstances, the state is not in a position to appropriate larger funding allocations to cover the increased costs that would be associated with the Personal Care Attendant Quality Home Care Workforce Council. *Simply stated, the proposed legislation will result in the curtailment of the number of service hours that are critically needed by many consumers. The people who need PCA services deserve better than that.*

The Council on Developmental Services is available to discuss this issue further should you wish to do so. Thank you for considering the points that we have raised. We urge you to act in the best interests of our constituents and allow them to continue to conduct their lives as independently as possible.

Sincerely,



James W. Heffernan
Chairman, Wethersfield

Connecticut Council on Developmental Services
Patrick Vingo, Vice Chairman, South Norwalk
Dr. John Pelegano, Secretary, Glastonbury
Donna Bouteiller, Cheshire
Jennifer Carroll, Glastonbury
David Hadden, Simsbury
Sheila Mulvey, Southington
John N. Frost, Essex
Jamie Lazzaroff, Hampton
Patti Silva, Wethersfield
Louis Richards, Waterbury
Thomas Kalal, East Lyme

cc: Governor Dannel P. Malloy
Lt. Governor Nancy Wyman
Senator Donald E. Williams, Jr., Senate President Pro Tempore
Representative Christopher G. Donovan, Speaker of the House
Senator John McKinney, Senate Minority Leader
Representative Lawrence F. Cafero, Jr., House Minority Leader



STATE OF CONNECTICUT
OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
60B WESTON STREET, HARTFORD, CONNECTICUT 06120-1551

Testimony of the Office of Protection and Advocacy for Persons with Disabilities
before the Labor and Public Employees Committee

Submitted by: James D. McGaughey
Executive Director
March 13, 2012

Thank you for this opportunity to comment on Raised Bill No. 5433, An Act Creating a Procedure for Personal Care Attendants to Collectively Bargain with the State. I apologize for not being here in person, but a prior commitment has required me to be out of the state today.

As I have previously testified when earlier versions of this Bill were considered, our Office has concerns about this proposal. To understand those concerns, it may be useful to revisit a bit of the history behind Personal Care Services, and the central role they have played in freeing people with disabilities from situations of dependence.

The role of Personal Care Attendant (PCA) – some say Personal Care Assistant - was first defined in this country over forty years ago by people with significant physical disabilities seeking to escape the confines of institutional care and pursue lives in their own homes and communities. Those pioneers began what came to be called the Independent Living Movement, a movement that presented not only a radically different view of where and how people with significant disabilities could live, but also a fundamental redefinition of their identities, needs, contributions and rightful place in the world.

One of the core principles of the movement is its rejection of the “medical model” – a pervasive tendency to view people in terms of diagnoses and to place all efforts to meet their support needs under the general category of “healthcare”. So long as they were seen as “patients” who needed healthcare, the founders of the independent living movement realized they would not be respected as fully autonomous, equally worthy members of society. To be truly free, they needed to escape both the physical confines of nursing homes, and the powerful social imagery and judgmental control structures associated with healthcare agencies.

And so the PCA was born – an ordinary person hired and trained by someone with a disability himself or herself, to do pretty ordinary things – like getting out of bed, washing and dressing, eating, driving to work or the grocery store. Things like that. It turned out that there was more to it than just making sure that everyone understood that this was not “healthcare”. One of the big reasons the PCA approach has worked so well is because it allows so much individualization. No two people’s needs and preferences are identical, and the roles, tasks and especially the relationships established by people with disabilities and their PCAs can and do vary considerably. Indeed, much of the value of PCA services lie in their highly individualized nature, which is a function of the ongoing management relationship that the person who does the hiring, orientation and training – the person with the disability – establishes with the PCA. The person with the disability sets his or her own goals and expectations, chooses who he or she is comfortable working with, trains and directs that person (or persons) in ways that make sense in the context of his or her life.

As the concepts of self-determination/self-direction and individual and family supports entered the lexicon of services for people with intellectual and cognitive disabilities – people who, in earlier times, had been served only in institutional centers, group homes, and similarly supervised settings – the PCA concept was adapted and extended to allow people with those kinds of disabilities and their families to construct individualized support arrangements. Often, those arrangements include agreements with neighbors, family friends, co-workers and others with whom the individual and his or her family members are familiar and comfortable - agreements to provide supports that are relevant to the needs of the particular individual and which reflect his or her priorities. Again, it is a central precept that hiring, training and supervisory decisions are to be handled by the individual person with the disability and/or his or her family, precisely because, if the individual with the disability and his or her family are really in charge, that personal employer/employee relationship can transcend the limitations imposed by agency-based “home care”, and will support a level of personal choice that was previously unattainable. When the “consumer” is the employer, he or she has control over both the configuration of support services, and the interpersonal qualities of those hired to provide them, resulting in a much better “fit” between personal needs and the assistance provided to meet those needs

My major concern with this proposal is that it does not reflect an understanding of the highly individualized, personally empowering nature of the employer-employee relationship – the very thing that makes the Personal Care Services unique. In fact, the Bill would establish a centralized power structure - the Personal Care Attendant Quality Home Care Workforce Council - which would tend to compete with the role of the Personal Care Service consumer as employer. The Council would not only study and develop policies related to Personal Care Services, but would also engage in activities which have traditionally been reserved for the consumer/employer, such as providing “training” and establishing “standards”. The training issue is particularly important because the role of the PCA is to assist the individual in exactly the way he or she wishes to be assisted, not in a generic, “this is how I was trained to do it” way. The fact that the consumer/employer (or, sometimes in the case of DDS clients, that person’s family) does the training helps differentiate PCA services from services provided by home health aides or others who are hired, trained and managed by agencies. It also reinforces a fundamental cornerstone of the independent living movement for people with significant disabilities - that the individual with the disability is in charge of his or her own life and can successfully, independently accomplish the ordinary tasks of daily life by competently managing an employment relationship with his or her PCAs.

Other features of the proposed Council would also be in conflict with fundamental precepts of Personal Care Services. As described in the Bill, the Council would be dominated by State agencies, and would serve as an “employer” for purposes of collective bargaining. In fact, as its title suggests, the ultimate goal of the Bill is to establish (or recognize) not one, but two powerful structures – the Council, and one or more collective bargaining agents with which the Council would then bargain over “state reimbursement rates, benefits, payment procedures, contract grievance arbitration, and training, professional development and other requirements and opportunities appropriate for such personal care

Testimony of James McGaughey

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attendants". The Bill even boasts a provision for impasse arbitration which empowers an arbitrator – whose background would be in the arbitration of labor disputes, not in deciding questions related to Personal Care Service policy – to choose between the “last best” contract offer of either the Council or the collective bargaining agent. Defining the Council as an “employer”, and directing it to bargain with a recognized a collective bargaining agent will send mixed messages to PCAs about who their real employer is. Perhaps more insidiously, however, the ongoing process of negotiating the institutional interests of the State and the Union will come to dominate decisions about the direction and operation of PCA programs.

History is filled with examples of centralized policy-making authorities that were established with the best of intentions, but which ultimately became the very type of power structure that the first independent living pioneers worked so hard to escape. I urge you to proceed with caution in this area, and not establish an entity that could undermine the inherently individualized nature of PCA services.

Thank you for your attention. If there are any questions, please feel free to contact me.



Testimony to the Labor & Public Employees Committee
March 13, 2012
**Concerns/Opposition to Proposed House Bill 5433: AN ACT CREATING A PROCEDURE
FOR PERSONAL CARE ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE**
By Nora Duncan, Executive Director

The Arc Connecticut is a 60-year old advocacy organization committed to protecting the rights of people with intellectual and developmental disabilities and to promoting opportunities for their full inclusion in the life of their communities.

The Arc Connecticut has serious concerns with this bill, both specifically and conceptually. First and foremost, the right to self-determination for individuals with intellectual and developmental disabilities is one that must be protected by the Connecticut General Assembly. The intent to protect that right is evident in the bill, but the language falls short of full protection and creates the possibility for endless unintended consequences.

There are many people here today - individuals with intellectual and developmental disabilities, their families and the PCAs, as defined by this proposed bill, who support them - who will speak to you about their concerns and objections. The Arc Connecticut fully supports their right to speak up against proposed legislation that they feel interferes with their right to self-determination, their right to care for their family members without outside interference and/or their right to work independently. The Arc Connecticut also fully recognizes the right for employees to organize and the reasons why individuals may chose to pursue collective bargaining rights, however, there are some fundamental questions about Executive Order 10 and whether it subverts the democratic process.

The Arc Connecticut has heard from many people, some of them here today, about "the list" of PCA's that the State of Connecticut delivered to union organizers for the purposes of clearing the way for a vote on unionization. The overarching theme of what we have heard is one of confusion. This is in part due to the complexity of the Medicaid Waivers and pilots involved, which this bill fails to fully recognize, and also in part due to the overreaching definition of PCA. For instance, there are people on "the list" and who have received communications from 1199 that simply do not belong in a PCA union under any reasonable and rational thought. The best example I can provide is that of a father who only receives mileage reimbursement from the State to drive his daughter to and from work and appointments. His \$.43/mile reimbursement clearly should not qualify him as a PCA. If he becomes unionized, will he also be required to receive a standardized hourly wage for his services, reducing his daughter's ability to purchase the supports she relies upon?

If this bill is to pass out of the Labor Committee, which at this time The Arc Connecticut cannot support, please include the following considerations and recommendations for Joint Favorable Substitute language:

➤ Section 2: Make the majority of representatives on the PCA Quality Home Care Workforce Council a consumer, a surrogate and/or a representative from an existing Board of Commission that represents the best interests of individuals with disabilities and decouple the process from the political caucuses. It is important to ensure that the consumer and surrogate members of the workforce council be as specifically diverse and representative as possible of all the waivers and pilots included in the definition of a PCA. The current make-up gives the majority to the Governor and his/her Administration's appointees/delegates.

➤ Section 2(b): It seems impossible that the PCA Quality Home Care Workforce Council and DSS can carry out this level of work, including developing trainings, registries and coordinating emergency respite referrals without financial resources. Any fiscal note should consider this.

➤ Section 3(a)(1)(C): Add "consumers and" before the word "surrogates".

➤ Section 3(a)(2): This section reads that "services" will not be reduced to consumers. DDS waivers are about individualized "budgets", not services. This language fails to appropriately safeguard budgets or make guarantees for DDS consumers. While there is language that requires legislative approval of collective bargaining agreements and matching appropriations, there is overwhelming insecurity on the part of individuals and families about the process and the language, specifically that even if budgets stay the same, that the cost of purchasing services will increase. The Labor Committee must not vote out a bill that is anything less than 100% clear and certain on the protection of both budgets and services.

➤ The bill is silent on, and therefore fails, to strictly prohibit the right to strike by unionized PCA's, an exceedingly important piece of the recommendations that came out of Executive Order 10.

➤ The Arc Connecticut recommends two additional items:

- a "consumer/surrogate satisfaction" study/survey to be administered annually by an impartial third party, as contracted by the Personal Care Attendant Quality Home Care Workforce Council and paid for jointly by the State and 1199, and
- a "consumer/surrogate bill of rights".

Until the reservations and concerns of individuals with intellectual and developmental disabilities and their families, who were not consulted or made a part of this process by the Administration, are more comfortable and supportive, this bill should be tabled and the meet and confer process can continue. Thank you for your time and consideration on this incredibly important and sensitive matter. Please do not hesitate to contact me with questions or to further clarify the position of The Arc Connecticut.

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STATE OF CONNECTICUT
COUNCIL ON DEVELOPMENTAL DISABILITIES



Testimony
Labor Committee
March 13, 2012

Raised Bill No. 5433: Testifying Against

*AN ACT CREATING A PROCEDURE FOR PERSONAL CARE
ATTENDANTS TO COLLECTIVELY BARGAIN WITH THE STATE.*

My Name is David King and I live in Bridgeport. I am an appointed member of the CT Council on Developmental Disabilities. The Council is a Governor-appointed Council which includes people with developmental disabilities, family members and professionals working toward full inclusion of children and adults with all disabilities in the community.

I am here today to testify against Bill 5433 regarding Collective bargaining for Personal Care Attendants. This Bill addresses any state-funded program that provides services from a personal care attendant. As someone who uses personal care attendant services, I am really concerned about this bill. And it is not just about me.

This act affects children and adults with disabilities who receive Personal Care Attendant services. In this bill, those services are defined very broadly, and include services that could meet the person's daily living needs, **OR** services that make sure that the person functions in their home **OR** services that provide save access to activities in the community. That could include a lot of different types of support including support from family members who are paid to care for someone, and other types of support including mentors, respite workers or others.

Also, I have a limited amount of funding to pay for my PCA. I train that person myself, to meet my needs. My needs are unique. Training by someone else won't improve the quality of my care.

I don't have enough funding available to support higher wages and union dues out of this small pot of money I am given. And if the money also has to pay union dues, which it will, there will be even less money available. That means that in reality the PCA's lose and so do people with disabilities. Further, most PCA's work less than full time and will not be eligible for benefits anyway. In Michigan where unionization has already happened, individuals and families have lost thousands of dollars each year, gaining absolutely no benefit of any kind.

This bill will allow a PCA Council to enter into collective bargaining agreements to control salary, benefits, training and other requirements. This plan will use state/federal funds to pay union dues and those funds really won't benefit me or any of the other consumers who manage our small pots of money to hire the people who care for us.

Please vote NO on this bill.

Thank you.

Eccleston, Susan M.

From: Bruni, Kathy A. (DSS)
Sent: Tuesday, August 09, 2011 11:05 AM
To: Eccleston, Susan M.
Subject: RE: Governor's Office Request -- Executive Orders Related to Personal Care Attendants and Family Child Care Providers

No I don't have concerns about your comments, those comments are still valid.

kathy

From: Eccleston, Susan M.
Sent: Tuesday, August 09, 2011 10:10 AM
To: Bruni, Kathy A. (DSS)
Subject: RE: Governor's Office Request -- Executive Orders Related to Personal Care Attendants and Family Child Care Providers

Thanks Kathy. Do you have any concerns with the comments we provided in our original bill write-up of sHB 6486 (file 359)? Thanks.

The Governor's budget for the Department of Social Services includes \$25.1 million in FY 12 and \$27.2 million in FY 13 for the PCA waiver. If we were to assume a modest 5% increase as a result of collective bargaining provisions, then the state would experience additional costs of \$1.3 million in FY 12 and \$2.7 million in FY 13. If we were to assume a 20% increase in wages and added benefits, the state would incur additional costs of \$5.0 million in FY 12 and \$6.4 million in FY 13. These funds are not included in the Governor's budget. Under the PCA waiver, depending on the individual's needs, the cost of care cannot exceed 60% (2 activities of daily living (ADLs)), 80% (3 to 4 ADLs) or 100% (5 ADLs) of the cost of nursing home care. Thus, if wage and benefit increases occur and cost caps remain constant, some consumers will not have enough hours to stay in the community or, under Money Follows the Person, to transition to the community. In fact, individuals with higher needs could be forced into a nursing home. This will result in a greater cost to the state not only due to the cost of the nursing home placement but also because the slot under the PCA waiver will be refilled due to the program's waiting list.

In addition to the PCA waiver, individuals under the Connecticut Home Care Program for Elders (both the state-funded and Medicaid programs) are eligible for PCA services when it is a cost effective alternative to providing home health, homemaker and companion services. Cost effectiveness is determined on an individual basis. This cost effectiveness determination will be impacted when the cost for PCA services increases as a result of providing collective bargaining. Of the approximately 240 individuals utilizing PCA under the CHCPE, some will have fewer hours of care available to them as a result of an increased hourly PCA wage.

From: Bruni, Kathy A. (DSS)
Sent: Tuesday, August 09, 2011 7:37 AM
To: Eccleston, Susan M.
Subject: FW: Governor's Office Request -- Executive Orders Related to Personal Care Attendants and Family Child Care Providers

Sue:

This is the summary that heather put together from all of our comments here. Please let me know if you need anything further. Thanks.

kathy
