



AGING COMMITTEE

Public Hearing

March 3, 2016

Written testimony of State Ombudsman, Nancy Shaffer

Good morning Co-Chairpersons, Senator Flexer and Representative Serra, Vice-Chairpersons, Senator Osten and Representative Rovero, Ranking Members, Senator Kelly and Representative Bolinsky and esteemed members of the Aging Committee. My name is Nancy Shaffer and I am the Connecticut State Long-Term Care Ombudsman. Per the Older American's Act and CT General Statutes 17a-405-422 inclusive, it is the duty of the State Ombudsman to provide services to protect the health safety, welfare and rights of individuals who reside in skilled nursing facilities, residential care homes and managed residential communities/assisted living facilities. It is the responsibility of the State Ombudsman to advocate for changes in laws and governmental policies and actions that affect the health, safety, welfare and rights of residents.

I appreciate this opportunity to testify on behalf of the more than 30,000 individuals who reside in our long-term care institutions throughout Connecticut:

S.B. No. 266 (RAISED) AN ACT CONCERNING A RIGHT TO RESCIND A NURSING HOME CONTRACT.

S.B. 266 allows the resident to rescind a nursing home admission agreement not later than the third day after signing the agreement. The Long-Term Care Ombudsman Program believes the intent of this proposal is to provide an added safeguard for the consumer at the time of an admission to a skilled nursing facility. Importantly, the resident or resident's designee should always have the opportunity to carefully review the admission agreement before signing.

Admitting one's self or a loved one to a nursing home is an incredibly important and difficult decision. And these decisions are often made at a time of an acute illness or medical challenges. If the individual is in the hospital and transitioning to a nursing home for continued care, these decisions oftentimes must be made quickly. And on short notice nursing home choices may be limited. At the time of admission there is also a great deal of paperwork that must be done. And the agreement is but one piece of this large "stack" of information and papers. It is likely new information for the consumer and it can feel overwhelming to them to digest it all and sign.



There are a variety of concerns that are not addressed in this proposal that may have potential ramifications for the residents' health and safety:

Firstly, what is the status of the resident at the time the contract is rescinded? Is the resident immediately discharged with a plan of care and services? Will the nursing home facilitate a transfer to another home without contract? Or, is the resident/family responsible for developing a plan of care and facilitate its own discharge? Will the nursing home provide care until the person leaves the home to ensure their needs are met? Can parts of the contract remain valid after the contract is rescinded? Admission agreements generally have a clause that the resident will give fifteen day notice prior to discharge, will that clause be removed from the agreement? And finally, I suspect nursing home providers may ask about their own liability during this "limbo" period of time.

The right to rescind a contract within three days of signing is an excellent protection for the consumer. But the questions about how rescinding the contract may effect the resident's status and his or her health and safety are important issues to address. In a query to other State Ombudsmen across the country, about a dozen responded that they do not have a similar statutory provision for rescinding an admission agreement in their states. No one responded that there is such statutory provision in their state. So we do not have any known examples from which to learn how best to operationalize this concept.

While not opposed to the concept of rescinding an admission agreement, the Office of the State Ombudsman does not support the proposal without further clarification about the protections for the residents' health and safety.

H.B. No. 5361 (RAISED) AN ACT CONCERNING A PROTECTED PERSON'S RIGHT TO INTERACT WITH OTHERS.

I understand that this proposal affects all individuals who are protected under CT statute because they are deemed incapable of meeting essential requirements for personal needs or managing financial affairs. As State Ombudsman I will provide comment on this proposal specific to the populations served by the Connecticut Long-Term Care Ombudsman Program- those who reside in long-term care settings.

The foundation and practice of the Long-Term Care Ombudsman Program is always to act at the direction of the resident. This practice can be a bit more challenging when the resident is conserved. Under some circumstances the conservator may determine it is in the conserved person's best interest to restrict interaction with certain individuals. When the resident tells us they want to have continued interaction the role of the Ombudsman is to then help the

conservator, resident and the facility care team honor the resident's wishes in a safe manner. In the institutional setting, we have had Ombudsman cases in which family or friends have exploited or financially or emotionally abused the resident. And it is not unusual for the resident to want to have some continued interaction with that person.

While the Ombudsman Program knows that at times it is not wholly in the best interest of an individual to have interaction with certain other individuals it is always our duty to ensure the rights of the resident are respected and sometimes that means tailoring a visitation plan that addresses safety issues. At times it may be appropriate to move a court to intervene on behalf of the resident and his/her wishes. This intervention should be initiated only after prudent consideration and when problem-solving and negotiations have been ineffective.

The Ombudsman Program respects the role and responsibilities of the conservator. At the same time the goal of the Ombudsman Program is to ensure that every effort is made to honor the resident's wishes.

Thank you for your attention to these important issues. I am happy to answer your questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Nancy Shaffer". The signature is fluid and cursive, with a large initial "N" and "S".

Nancy Shaffer, State Ombudsman

