



Testimony to the Aging Committee

Presented by

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Regarding

- **SENATE BILL 804, AN ACT REQUIRING THE STATE OMBUDSMAN TO INVESTIGATE COMPLAINTS CONCERNING RECIPIENTS OF HOME AND COMMUNITY-BASED SERVICES**
- **SENATE BILL 827, AN ACT CONCERNING ALZHEIMER'S DISEASE AND DEMENTIA TRAINING AND BEST PRACTICES**
- **SENATE BILL 828 AN ACT REDEFINING EXPLOITATION OF ELDERLY PERSONS**
- **SENATE BILL 832, AN ACT CONCERNING REGISTRIES OF PERSONS FOUND RESPONSIBLE FOR ASSAULTS OR OTHER ABUSE, NEGLECT, EXPLOITATION OR ABANDONMENT OF ELDERLY PERSONS OR PERSONS WITH DISABILITIES**
- **HOUSE BILL 7072, AN ACT INCREASING FUNDING FOR ELDERLY NUTRITION SERVICES**
- **HOUSE BILL 7099, AN ACT INCREASING THE MINIMUM RATIO OF DIRECT CARE STAFF IN NURSING HOMES**
- **HOUSE BILL 7100, AN ACT CONCERNING NONEMERGENCY TRANSPORTATION FOR NURSING HOME RESIDENTS**
- **HOUSE BILL 7103, AN ACT CONCERNING NURSING HOME FALLS**

Good morning Senator Maroney, Representative Serra, and members of the Aging Committee. On behalf of LeadingAge Connecticut, a membership association representing not-for-profit provider organizations serving older adults across the entire field of aging services and senior housing, I am pleased to present the following testimony on several of the bills that are before you today.

Senate Bill 804, An Act Requiring the State Ombudsman to Investigate Complaints Concerning Recipients of Home and Community-Based Services

In support of the concept

The work of the independent Office of the Long-Term Care Ombudsman is extremely valuable to nursing home residents and we would support the concept of expanding the role of the Office to reflect the rebalancing of the long-term care field. We are concerned however that the definition of “home and community-based services” contained in this bill is extremely broad and potentially overwhelming. The Committee might consider limiting or phasing in the expansion of duties for the Ombudsman, such as starting with home and community-based services that are funded through Medicaid waiver programs. Refining the scope of home and community-based services covered by this, at least initially, would serve to clarify the expectation and responsibility of the Office. It would also be helpful to make a distinction between the duties of the Ombudsman statute and the Office of Elderly Protective Services with regard to these investigations.

Senate Bill 827, An Act Concerning Alzheimer’s Disease and Dementia Training and Best Practices

In support

We would like to speak in favor of SB 827, An Act Concerning Alzheimer’s Disease and Dementia Training and Best Practices, and specifically in favor of the establishment of a work group to review and update the current set of recommendations established by the Task Force on Alzheimer’s Disease and Dementia established in 2013. LeadingAge Connecticut members participated on the previous task force and we would be interested in working with the Alzheimer’s Association and other interested advocacy groups to assist in the review and update of the recommendations that were produced by that task force. In addition, we support the recommendation of LiveWell to include persons living with dementia on the work group membership. Their experience and perspective are vital to the mission of the workgroup and would be extremely valuable to the development of recommendations.

Senate Bill 828, An Act Redefining Exploitation of Elderly Persons

In opposition

This bill proposes to amend the definition of “exploitation” in the elderly protective services statute, CGS §17b-450, by adding nursing homes to the list of person or entities that might perpetrate exploitation of an elderly person. We oppose this bill.

It is unfair and inaccurate to single out nursing homes as potentially culpable of taking advantage of an elderly person. Nursing homes are vital partners in preventing and detecting abuse, neglect and exploitation of older adults. They are actively involved in partnering with others to solve the problem of exploitation and should not be singled out and painted as perpetrators.

No other type of entity is listed in the definition of exploitation in Section 17b-450. The definition is geared toward individuals - “another person” or “caregiver.” Inserting nursing homes into this definition creates a presumption that nursing homes, unlike any other type of entity – landlord, bank, fraudulent companies, or even other health care facilities and agencies – are likely to exploit an elderly person thereby triggering a specific obligation for mandatory reporters. That is not the case. Indeed, there is far more on-site supervision and regulatory oversight of nursing homes in this regard than of any other licensed health care provider. Nursing homes are required to comply with extensive federal and state licensure and Medicare/Medicaid certification requirements aimed at preventing and responding to allegations of abuse, neglect and exploitation.

In any event, this proposal is unnecessary and misplaced. Section 17b-450 et seq. governs mandatory reporting obligations regarding elderly individuals under the jurisdiction of the Elderly Protective Services unit within the Department of Social Services.

Elderly Protective Services is responsible for protection of the elderly in the community, including specifically for receiving and responding to mandatory reports about abuse, neglect, exploitation or abandonment of an elderly person. Indeed, the elderly protective services statute includes, among its mandatory reporters, individuals who work in nursing homes. Often nursing homes are in a position to develop a reasonable suspicion that abuse, neglect or exploitation will occur through interactions with resident family members and based on their assessments and interactions with nursing home residents admitted from the community, or out in the community on medical leave.

Protection of nursing home residents and mandatory reporting of any exploitation, abuse, neglect or abandonment of a nursing home resident, is already codified in a separate statute, Conn. Gen. Stat. §17a-412, which is in the set of statutes governing the Office of the State Long Term Care Ombudsman. Under that law, any mandated reporter is obligated to report exploitation of a nursing home resident to the Department of Social Services, which then

informs the resident involved of the services of the State Long Term Care Ombudsman. While the Department of Social Services investigates these reports, in our experience, the Long Term Care Ombudsman is typically involved. And of course, this existing state statute is in addition to the very strict and extensive federal and state licensure and Medicare/Medicaid certification requirements governing mandatory reporting of any suspected abuse of a nursing home resident that were already mentioned.

Senate Bill 832, An Act Concerning Registries of Persons Found Responsible for Assaults or Other Abuse, Neglect, Exploitation or Abandonment of Elderly Persons or Persons with Disabilities

In support of the concept

LeadingAge Connecticut offers our assistance if this bill moves forward to ensure that the current centralized background check system mandated for use by long term services and supports providers is appropriately modified.

House Bill 7072, An Act Increasing Funding for Elderly Nutrition Services

In support

LeadingAge Connecticut supports this bill which acknowledges the need to increase the fee schedule rates for meals on wheels deliveries provided through the Connecticut Home Care Program for Elders (CHCPE). A high value should be placed on this program which not only provides crucial daily nutritional meals, but also ensures a daily visit and eyes on contact with the elderly recipients receiving those meals in their homes.

Meals are just one of the *many* valuable services that are offered through the Connecticut Home Care Program for Elders and all of these services are undervalued by the current fee schedule. We encourage the Committee to revisit the statutory requirement passed in 2014 (PA 14-217) that mandated "*an analysis of the cost of providing the services covered under the Connecticut home care program for elders which would include a determination of the rates necessary to reimburse providers of such cost.*" This information was requested of the Department of Social Services so as to allow for an informed analysis of the current fee schedule and to permit adequate planning for future reimbursement levels. The resulting report that was submitted to the General Assembly in 2015 was woefully inadequate and did not meet the intent of the law. We would therefore respectfully request that the Committee consider requesting of DSS that they provide the data and analysis required by that statute.

House Bill 7099, An Act Increasing the Minimum Ratio of Direct Care Staff in Nursing Homes

In support of the concept

LeadingAge Connecticut supports raising the minimum nursing home staffing requirements listed in the Public Health Code for licensed and certified nursing staff. While we support raising the minimum requirements that are stated in the Public Health Code, we do want to reassure the Committee that both the Public Health Code and federal oversight regulations currently require nursing homes to staff at a level that meets the needs of residents. These same regulations authorize the Department of Public Health to assess penalties in certain cases when facilities fall short of staffing requirements and fail to employ sufficient staff to meet resident needs.

In previous years there have been similar proposals to increase the minimum staffing level and LeadingAge Connecticut had previously agreed with the proponents of those bills to a minimum level of not less than 2.3 direct care nursing staff hours per resident day. This bill calls for a 3.0 hour minimum and we would be willing to discuss and consider this higher minimum level.

The bill also proposes to update the manner in which the state will measure the nursing home staffing level by establishing a daily minimum ratio which is the same calculation currently used by the Centers for Medicare and Medicaid Services (CMS) on the Nursing Home Compare consumer website and which recognizes the necessity to staff to the needs of the residents over a full day. We strongly support this updated measurement. In fact, we request that the legislation require the Department of Public Health to establish through regulation state requirements that are in coordination and compliance with the new federal CMS staffing data submission and reporting requirements. The federal requirements that went into effect just last year now require nursing homes to report staffing data through quarterly electronic submission of auditable payroll data. This new reporting system is called the Payroll-Based Journal (PBJ) system. The PBJ was designed to meet the requirements for the collection and reporting of staffing data that were set forth in the Affordable Care Act.

We also request that the bill include a provision that would require an adjustment of Medicaid rates, if needed, to ensure compliance with the provisions.

We would also be remiss if we did not raise our concern regarding the ability to recruit and retain an aging services workforce that can meet the needs and demands of our aging population. We ask that the Committee support efforts to enhance our state's long term services and supports workforce through expanded training opportunities, increased funding for reimbursement rates, and other efforts aimed at attracting and retaining workforce talent within the field of aging services.

House Bill 7100, An Act Concerning Nonemergency Transportation for Nursing Home Residents

In opposition

We appreciate the intent of this proposal which is to find additional means to help non-ambulatory residents visit their families. As always, we would be pleased to discuss ways to enhance the lives of nursing home residents, including enhancing their ability to engage with their families. We cannot, however, support the mandate proposed by this bill as we are concerned that it will evolve into an unfunded mandate on the nursing home and an unsustainable demand on our workforce.

We are currently facing challenges in the provision of medical transportation and the growing time demands on our staff members who are sent to accompany residents on such visits. Providing nursing assistants to accompany residents on non-medical visits would be an additional strain on our staffing needs. And while the bill allows for the nursing home to charge for the cost of providing the mandated transportation, there is no guarantee of payment. The bill is also silent on the number and frequency of trips that can be requested. While we know this proposal is well intended, we cannot support this mandate at this time.

House Bill 7103, An Act Concerning Nursing Home Falls

In opposition

We do not support this bill which would add a new right to the residents' bill of rights requiring that the facility inform residents that the facility has a responsibility under federal law to mitigate patient fall risks, including provision of sufficient staff supervision and assistive devices to prevent falls. This is unnecessary as the residents' bill of rights already has a broad provision that the resident has the right to "receive quality care and services."

In addition, nursing homes are already tightly regulated in this area. Nursing homes are required to report falls directly to Department of Public Health (DPH) and DPH investigates these mandated reports, as well as any related complaints, in addition to conducting regular surveys annually to assess the facility against a detailed set of federal and state requirements. Adding this aspect of a facility's care obligations to the residents' bill of rights does not make sense. Other aspects of patient care are not addressed in the bill of right and that is not the purpose of the bill of rights.

The bill also would require a nursing home to offer the use of "assistive devices" to prevent falls. While this term is not defined, it should be known that the use of many fall prevention devices used in the past, such as bed alarms, physical restraints, and chemical restraints, is either strongly discouraged or prohibited by federal regulation. We therefore must oppose this proposed requirement.

Fall prevention is one of the most challenging and ongoing issues in all of aging services, including in the nursing home setting. Federal nursing home regulations address this issue while also acknowledging that numerous accident hazards exist in everyday life and can be difficult to avoid. The fragility of most nursing home residents adds to the complexity of preventing falls. As a result, regulatory guidance stresses the importance of a falls prevention program that involves all nursing home staff with the goal of developing the safest environment possible.

A falls prevention program begins by creating a culture of safety, identifying falls history and risk factors, conducting an assessment and evaluation, and then developing a person-centered care plan. It is an interdisciplinary team effort and it should be part of the facility's continuous quality assurance and performance improvement effort.

We are all in agreement that our goal must be to achieve and maintain effective fall prevention programs within our state's nursing home facilities. While we cannot support this bill, we welcome a discussion on how better we can support the nursing facilities and their commitment to this goal, including how we can provide the funding necessary to maintain the tools, resources and training that is essential to continue this quest.

Thank you for this opportunity to testify this morning. Please consider us to be a resource to you as you consider this and other issues related to aging services.

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