

CAHCF/CCAL

Connecticut Association of Health Care Facilities
Connecticut Center for Assisted Living

March 9, 2021

Written testimony of Matthew V. Barrett, President/CEO of the Connecticut Association of Health Care Facilities and the Connecticut Center For Assisted Living (CAHCF/CCAL)

Good afternoon Senator Miller, Representative Phipps, and to the distinguished members of the Aging Committee. My name is Matt Barrett. I am the President and CEO of the Connecticut Association of Health Care Facilities (CAHCF), our state's trade association and advocacy organization of one-hundred and sixty skilled nursing facilities and assisted living communities. Thank you for this opportunity to submit testimony on **S.B. No. 975 (RAISED) AN ACT STRENGTHENING THE BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS.**

This bill proposes additional provisions to Connecticut nursing home resident bill of rights.

The proposed legislation provides that each nursing home resident is entitled to treat his or her living quarters as his or her home and has no fewer rights than any other resident of the state, including, but not limited to (A) associating and communicating privately with persons of the patient's choice, and (B) purchasing and using technology of the patient's choice, including, but not limited to, technology that may facilitate virtual visitation with family and other persons, provided operation and use of such technology shall not violate any individual's right to privacy under state or federal law.

These proposed changes are duplicative of rights already provided under federal law and have the potential to create confusion in their application. Existing federal regulations at 42 C.F.R. 483.10 include extensive and detailed rights which must be afforded to all nursing home residents and were updated in 2017 by the Centers for Medicare and Medicaid Services (CMS), enhancing an already strong body of federal requirements. These rights include protections for privacy in communications, visitation, personal privacy and include guidance regarding a resident's right to privacy with respect to the use of technology and the right to exercise all rights as a citizen or resident of the United States as well as the nursing home. These numerous federal regulations include detailed interpretive guidance covering approximately fifty (50) pages. The requirements are strictly enforced by the Connecticut Department of Public Health (DPH). Noncompliance carries significant financial penalties for Connecticut nursing homes and will reduce a nursing home's publicly reported quality star rating.

In light of the existing federal regulations, the proposed additions to the Bill of Rights are overly broad, which once more has the potential to create unnecessary confusion and ambiguity when read together with well-established provisions already in law. In particular, the language as written regarding the right to treat “his or her living quarters as his or her home and has no fewer rights than any other resident of the state.” The language creates confusion because, as a congregate or communal setting, most resident rooms are not private, but rather are shared with unrelated persons and therefore any rights must be exercised without infringing on the rights of other residents.

Similarly, the right to use technology also must include consideration of the rights of other residents. We believe the separate and more detailed treatment of this issue is a better approach, which addresses the privacy rights of both the resident and others is necessary. Indeed, this approach is under consideration by the Aging Committee under proposed H.B. 6552, AAC THE RIGHTS OF RESIDENTS IN LONG TERM CARE FACILITIES TO USE THE TECHNOLOGY OF THEIR CHOICE FOR VIRTUAL CONNECTIONS TO FAMILY, FRIENDS AND OTHER PERSONS.

The proposed legislation also provides that each nursing home resident has the right to present grievances and recommend changes in policies, procedures and services to the manager or staff of the nursing home facility, residential care home or chronic disease hospital, government officials or any other person without restraint, interference, coercion, discrimination or reprisal from the nursing home facility, residential care home or chronic disease hospital, and (C) access to representatives of the Department of Public Health, the Department of Social Services or the Office of the Long-Term Care Ombudsman.

Again, these provisions already exist in federal law, including the right to access representatives from state and federal agencies, including the Ombudsman’s office, as well as the resident’s own representatives and physician. In addition, there are detailed rights to voice grievances and accompanying requirements on nursing homes regarding responding to grievances and establishing grievance policies and notices. Noncompliance carries significant financial penalties for Connecticut nursing homes and will reduce a nursing home’s publicly reported quality rating.

Thank you again for this opportunity to testify on the bill as drafted. I would be happy to answer any questions you may have.

For additional information, contact: Matthew V. Barrett, mbarrett@cahcf.org or 860-290-9424.