

March 14, 2014

Written testimony of Matthew V. Barrett, Executive Vice President, Connecticut Association of Health Care Facilities (CAHCF) in opposition to Section 7 of H.B. No. 5537 (RAISED) AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES

Good afternoon Senator Gerratana, Representative Johnson and to the members of the Public Health Committee. My name is Matthew V. Barrett, Executive Vice President of the Connecticut Association of Health Care Facilities (CAHCF), our state's one hundred and sixty-seven (167) member trade association of skilled nursing facilities and rehabilitation centers. Thank you for this opportunity to submit written testimony in opposition to the provision is Section 7 of H.B. No. 5537 (RAISED) AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES

This bill proposes to impose upon any nursing facility management services certificate holder managing a nursing facility which has a decline by two stars or more to submit a written improvement plan to the Commissioner of Public Health within thirty (30) days of such decline. The improvement plan must include, among other things. (1) An assessment of patient acuity; (2) a description of the nursing facility management service certificate holder's plan to increase the staffing hours of registered nurses at the nursing facility; (3) a description of staff retraining; and (4) a description of interventions to improve quality measures that are below the state average.

We oppose these provisions because: 1) the proposed legislation makes flawed assumptions regarding the causes for decline in a nursing facility's five star rating; 2) the Department of Public Health already has sufficient recourse to address any concerns it may have regarding the quality of care provided by a nursing facility under a management service certificate holder; and 3) there is no logical basis for singling out management certificate holders rather than all nursing facility operators. Our members would welcome the opportunity to work with the Department of Public Health on measures and systems that could better achieve the goals of this legislation.

First, this legislation relies upon the assumption that a drop in a facility's 5 star quality rating is an indication of a decline in the quality of care requiring an improvement plan. We disagree that this assumption is correct given how the five star system works. A nursing facility's 5 star rating is based on a number of factors including quality measures, staffing and health inspection results. CAHCF believes that there are fundamental shortcomings in the quality measures used on CMS's Nursing Home Compare and Five Star rating system. A nursing facility may experience a decline in its five star rating for reasons beyond its control or which are not necessarily reflective of a decline in quality care. For example, the staffing rating is based only upon the two week timeframe immediately prior to survey. A facility's staffing rating may decline if in the two week snapshot period the facility had a fewer staff due to vacation or holiday

schedules, for example. Additionally, staffing numbers are not acuity based and therefore staffing hours may decline in a particular nursing facility totally appropriately based on the acuity of its residents during that two week snapshot without any corresponding decline in the quality of care provided. Similarly, health inspection ratings are extremely fragile and a decline in this area does not necessarily reflect a decline in quality. One isolated issue survey issue may cause a facility to suffer a decline in this category, thereby reducing its overall rating even though there is no decline in the overall quality of care and no indications that DPH oversight of the building is warranted.

Most significantly, federal standards require certain percentages for each five star category. For example, only 10% of nursing facilities in the state may have an overall rating of 5 stars. Similarly, 20% of nursing facilities in the state **must** have an overall rating of 1 star and therefore a nursing facility's five star rating may decline even where all of its numbers and data remain the same, simply because other nursing facility's numbers improved.

CAHCF further opposes this legislation because the Department already has sufficient recourse to address quality concerns in nursing facilities. In addition to civil money penalties, any nursing facility which has a poor inspection or which DPH believes is providing poor quality care may be subject to imposition of a consent order by the Department of Health at its discretion. The consent order allows the Department to impose any number of measures on that nursing facility in order for it to continue operations.

Finally, CAHCF opposes this bill because there is no basis for limiting this legislation only to nursing facilities who are operated under a management company.

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

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