



February 28, 2018

**Written testimony of Matthew V. Barrett, President/CEO of the Connecticut Association of Health Care Facilities (CAHCF), in opposition to H.B. No. 5157, AN ACT REQUIRING THE INSTALLATION OF VIDEO CAMERAS IN THE ROOMS OF NONVERBAL NURSING HOME RESIDENTS**

Good afternoon Senator Gerratana, Senator Markley, Representative Steinberg and to the members of the Public Health Committee. My name is Matthew V. Barrett, President and CEO of the Connecticut Association of Health Care Facilities (CAHCF), our state's one hundred and fifty-three member trade association of skilled nursing facilities and rehabilitation centers. Thank you for this opportunity to offer testimony concerning **H.B. No. 5157, AN ACT REQUIRING THE INSTALLATION OF VIDEO CAMERAS IN THE ROOMS OF NONVERBAL NURSING HOME RESIDENTS.**

Our testimony is directed to the bill as drafted. This legislation will require each nursing home in Connecticut to ensure that (1) a video camera is installed in the room of every nonverbal resident of the nursing home, (2) each installed video camera is operational and records interactions between the nonverbal patient and nursing home staff, and (3) designated nursing home staff is trained to monitor the feed from each video camera and immediately report any incidents of abuse, neglect, exploitation or abandonment of the nonverbal patient to the nursing home administrator of such nursing home and to the Commissioner of Social Services pursuant to section 17b-451 of the general statutes. The bill's statement of purpose provides that the intent is to ensure the safety of nonverbal residents in nursing homes.

New federal nursing home requirements of participation rules issued in 2017 by the Centers for Medicare and Medicaid Services (CMS) enhance a body of strong state rules on nursing homes to prevent, detect, report and thoroughly investigate incidences of abuse, neglect, exploitation, misappropriation and mistreatment of nursing home residents. The requirements are strictly enforced by the Connecticut Department of Public Health (DPH), including federal Elder Justice Act required reporting of allegations of abuse or any incident involving serious injury within two hours to the nursing home administrator and to DPH. Noncompliance carries significant financial penalties for Connecticut nursing homes and will reduce a nursing home's CMS public reported quality rating.

However, there are no federal laws either allowing or requiring the use of video monitoring in nursing home resident rooms. Neither has CMS issued any guidance on this matter to state public health agencies. The few states that have implemented or considered state legislation concerning video surveillance in nursing home resident rooms have made various attempts at addressing the very difficult issues that can arise when capturing very private material on video, including the protection of co-resident rights against invasive practices, such as hidden cameras installed without consent, and

HIPPA privacy issues. The Public Health Committee as it further considers H.B. 5157, should evaluate additional protections in the bill that would provide an assurance that proper written consent of the resident and any cohabitants (residents sharing a room) would be required, noting that any recording made without consent would be a violation of the nursing home residents' rights. These protections should also provide an ability of cohabitants to limit the monitoring, such as prohibiting audio recording, or that a video camera be pointed only at the requesting resident's bed to preserve the other resident's rights. The committee should also consider a provision to require notice be posted at the resident room's entrance so that anyone entering the rooms understands they are under surveillance.

Given the state's ongoing fiscal challenges and inability of the state to address the financial pressures currently being experienced in the nursing home sector, the committee should consider a provision that would require the resident requesting the surveillance, or in this instance those with the legal authority to act on behalf of the nonverbal resident, to be responsible for the full costs associated with the video monitoring, including the costs of camera equipment, installation, maintenance and monitoring. We hope the committee will consider that nursing home in no way have the staffing or resources to monitor the video surveillance required in the legislation.

Among other things, the legislation should address the question of who has ownership of the videos created at the request of the resident and at their own expense, and to what extent and under what circumstance the recordings are part of the medical record, and ultimately what authorities will have access to the recordings.

Finally, we hope the committee will very cautiously and carefully consider the strong body of law and the existing enforcement authorities in place to prevent and detect elder abuse as it further deliberates on the bill.

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

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