**February 14, 2014**

**Written testimony of Matthew V. Barrett, Executive Vice President of the Connecticut Association of Health Care Facilities (CAHCF), Inc. concerning the Governor's Midterm Budget Adjustment proposal for FY 2015**

Good evening Senator Bye, Representative Walker and to the members of the Appropriations Committee. My name is Matthew V. Barrett. I am Executive Vice President of the Connecticut Association of Health Care Facilities (CAHCF).

I am here this evening with a simple message from our one hundred and sixty-seven member association of skilled nursing facilities and rehabilitation centers, and on behalf of the residents and their caregivers: *Our nursing facilities need your help.* We just can't continue on a path where no help is provided without losing employees and jeopardizing quality. We are very mindful and understanding of Connecticut's fiscal challenges. But at a time when we need our state government most to help us maintain the quality of care that we are known for, and required of us, we have to continue to speak up. For example, last session, the adopted budget right cut $53.4 million in FY 2014 and $81.0 million in FY 2015 from Medicaid spending estimates related to savings associated with eliminating the scheduled rebasing of rates effective July 1, 2013 and the inflation estimated for July 1, 2014. An additional proposed nursing facility funding cut of $11.0 million in FY 2014 and $14.8 million in FY 2015 was only partially restored, leaving a $5 million reduction. Regrettably, under the adopted rate formula, most nursing facility rates were cut at a time when operating costs continue to move upwards, costs such as insurance, food, property taxes, wages, repairs and utilities.

Especially given the state surplus, these cuts were badly timed. Connecticut nursing facilities remain in a period of ongoing financial distress. Medicare reductions in 2012 were as high as 16% in many Connecticut nursing homes. Further, nursing homes were cut an additional 2% in the Medicare sequestration last year. At the state level, the gap under Medicaid between providing care and its costs is widening dramatically. This year nursing home providers will on average be reimbursed $25.43 per patient day less than what it costs to care for our residents. For the typical nursing facility, this represents over $500,000 per year in unfunded costs. There has been no Medicaid rate increases in the system since 2007, except for increase made possible by raising the user fees paid by nursing homes themselves (again, cut by $5 million last session).



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The Fair Rent component of the rate formula, which incents nursing facility quality improvement, has been restored only to its 2009 level, and the system still fails to reimburse for improving patient care and safety with new furniture, beds and other types of equipment, know as moveable equipment. . This is especially important given that many nursing facilities in Connecticut are nearly 40 years old and have the need for ongoing investment in the facility infrastructure, including meeting updated building requirements, new equipment and life and safety infrastructure maintenance.

This follows a sustained period of nursing facility receiverships, bankruptcies, closures, and Medicaid hardship rate relief requests. Yet there are 1 million baby boomers in Connecticut. There are 600,000 residents in Connecticut over the age of 60. Connecticut's aging population is among the oldest in the Nation, with over 160,000 Connecticut citizens over the age of 80 according to a December 2012 report issued by the U.S. Census Bureau. Much is being asked of our nursing facilities today, and more will be asked in the future, given the dramatic aging of our population, the need to reform rates as the state continues in the direction of long term care rebalancing and rightsizing. These changes will mean that the acuity and numbers of nursing facility residents will continue to rise measurably as our population ages, even as more residents choose home and community based environments to receive their care. On average, Connecticut nursing facilities are 91% full. The notion that our nursing homes are not needed is false. While we have supported efforts to increase care at home in such programs as Money Follows the Person, we are asking the Appropriations Committee to recognize that home care is not always the best options for our rapidly aging population. Even with the emphasis on home care present today, nursing facilities will remain a critical component in the continuum of long term car, especially to prevent an avoidable readmission to a hospital.

In conclusion, we are asking the committee to address the ongoing needs of our nursing facilities. We ask you to consider skilled nursing facilities as a critical, and cost-effective, component of the future of post acute care in our state---in reducing avoidable hospital stays and in providing more transitional services for residents who will eventually go home. Toward these ends, we are asking to work with you to (1) create a payment system which incents nursing facility quality improvement with payment methods to reduce licensed beds consistent with the state's long term care rebalancing and rightsizing goals, (2) totally restore the cuts from last session; (3) continue to work to resolve the ongoing excessive delays in the Medicaid eligibility process; and finally (4) reverse the current trend of flat or reduced funding and recognize the importance of nursing facility care going forward as essential in the continuum of long term care.

***Governor's Bill No. 5052 , AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS FOR HUMAN SERVICES PROGRAMS. Section 7.***

I would also like to take this opportunity to alert the members of the Appropriations Committee of our strong opposition to this related budget implementation bill concerning Medicaid rates for skilled nursing facilities. Our members will urge the Human Services Committee to reject Section 7 of the bill outright.

Providers delivering services in Connecticut's Medicaid program should have some level of certainty in how their rates may be set under the law. The approach recommended in Section 7, which we oppose, would have the statute delegate almost completely the discretion to set rates to the Executive Branch based on the available appropriations each year. The underlying rate setting statute is almost completely repealed in the proposed bill. For example, the proposed bill abandons a statutory rate formula for how rates will be set altogether, whether it be in the area of how property reimbursement, such as fair rent, will be addressed in the rates. We believe that the rate formula should be detailed in this regard and that there are strong policy reasons for doing so. For example, with fair rent and moveable equipment as an example, the detailed rate formula will serve to actually encourage higher quality nursing homes by incenting investment in the facility infrastructure and resident equipment. Leaving how fair rent will be treated a mystery at the discretion of the agency will create insecurity and discourage property investment. Moreover, the bill would only allow fair rent adjustments if there was an approved certificate of need (CON), but only if authorized by the commissioner and only If within available appropriations. Thus, normal expenditures below the CON threshold would never be allowed. There would be absolutely no justification for a provider to incur capital expenditures knowing that there would be virtually no funding to cover the Medicaid portion of the cost. With regard to CON, a provider who has an approved CON and commits its own resources to fund the project (which can be millions of dollars) could end up with no adjustment for fair rent because the adjustment may simply be denied at the commissioner's discretion. In other words, DSS can approve the CON 100% then, after the project is completed, deny the related reimbursement 100%. This is very unfair to the provider community. Further we also believe the proposed statute would cause the rate determination process to be in violation with Section 17b-340(a). Section 17b-340(a) states, "Such rates shall be determined on a basis of a reasonable payment for such necessary services, which basis shall take into account as a factor the costs of such services."

The bill would only consider a provider's costs if it would cause a rate decrease. Costs rarely decrease; they generally increase – insurance, property taxes, utilities, wages and benefits, food cost for residents, etc. The bill would disregard such increases entirely and permanently. Finally, repealing the lion's share of 17b-340 does not implicate state expenditures for state fiscal year 2015. We are asking that the state legislature to assert its legislative prerogative and adopt a law that will communicate to the provider community how rates will be set within the parameters of the adopted budget and reject such a broad delegation of authority to the

Executive Branch as proposed in HB 5052. Such a law would much more appropriately be adopted in the 2015 session of the Connecticut General Assembly. Section 7 of HB 5052 should be rejected this session.

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