

CONNECTICUT ASSOCIATION OF HEALTH CARE FACILITIES, INC.

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Testimony of Matthew V. Barrett, Executive Vice President of the Connecticut Association of Health Care Facilities (CAHCF), Inc.

Good morning Senator Flexer, Representative Serra and to the members Committee on Aging. 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 and advocacy organization of skilled nursing facilities and rehabilitation centers. Thank you for this opportunity to offer testimony at today's public hearing.

S.B. No. 266 (RAISED) AN ACT CONCERNING A RIGHT TO RESCIND A NURSING HOME CONTRACT.

This bill proposes to provide any person who signs an agreement for admission to a nursing home facility with a three day right of rescission. CAHCF asks that no action be taken on this proposal as drafted.

Nursing home admission agreements are important documents which set forth the rights of both the resident and the nursing home. There are a number of federal statutes and regulations which require that certain information be provided to, and signatures obtained from, the resident at the time of admission which are set forth in admission agreements. The statutory right to rescission is primarily designed to protect consumers from having to pay significant cancellation fees or penalties or from high pressure sales tactics. In Connecticut, the statutory right to rescission is limited to health club contracts, timeshare purchases, home improvement contracts and door-to-door sales and does not include significant purchases such as automobiles or homes. Nursing home admission agreements carry neither significant cancellation fees nor are they subject to high pressure sales tactics and therefore there is no need to extend the very limited right to rescission to nursing home admission agreements.

A nursing home resident has the right, both under federal and state law to leave a nursing home at any time, without any prior notice or financial penalty. Any fees charged by the nursing home end the day the resident leaves the nursing home. Accordingly, there is no need to protect individuals who sign nursing home admission agreements and later change their mind. They are free at any time to terminate the agreement and move out of the nursing home.

Conversely, this bill poses a significant risk to nursing home providers who have no similar rights to terminate nursing home admission agreements at will. Both federal and state laws impose strict limitations on the ability of a nursing home to discharge a resident once admitted. Connecticut nursing homes may only discharge a resident if: 1) the welfare of the resident cannot be met in the facility; 2) the resident no longer needs nursing home services due to improved health; 3) the resident's stay is no longer approved under the PASAR/level of care program; 4) the health or safety of individuals

in the facility is endangered; 5) a self-pay resident has failed to pay fees for 15 days or more; or 6) the facility ceases to operate. Even where any of those limited circumstances exist allowing discharge, nursing homes are additionally prohibited from discharging a resident unless there is a safe discharge plan. Additionally, the resident has the right to request a hearing to contest any proposed discharge, during which period the resident must be permitted to remain in the facility unless an emergency exists. This bill as written would allow an individual to move into a nursing home with a signed admission agreement, rescind that agreement within 3 days and remain indefinitely in the facility without any admission agreement in place. The facility would be unable to discharge the resident except for one of the limited circumstances above and then only upon 30 days' notice and opportunity for a hearing.

There are already countless cases of nursing home residents who do not pay for their care, or whose family members do not use the resident's funds to pay for care, but who cannot be discharged from nursing homes because there is no safe discharge plan for those individuals as other nursing homes are unwilling to accept non-paying residents and the residents cannot safely be discharged to their homes or to family members. There is simply no justification for imposing such a risk on nursing homes where there are no risks to the individuals who sign such agreements as they are permitted to simply terminate the agreements and vacate the nursing home or find an alternate nursing home. At a minimum, if the three day rescission period is permitted, it must be limited to circumstances where the individual has not already moved into the nursing home.

S.B. No. 242 (RAISED) AN ACT CONCERNING NURSING HOMES.

I am happy to endorse the study of nursing homes to determine whether (1) there is a sufficient number of nursing homes in the state, and (2) the services offered by such nursing homes meet the need for long-term care as recommended in S.B. No. 242.

In addition, CAHCF recommend the study scope be expanded and that the committee adopted a substitute version of subsection (b) as follows:

(b) The study conducted pursuant to subsection (a) of this section shall include, but not be limited to, a report on: (1) Decreases or increases in total nursing home population annually for fiscal years 2010 to 2015, inclusive; (2) state budget expenditures on nursing home care in each of said fiscal years; [and] (3) whether any programmatic or legislative changes are needed to better serve adults in need of institutionalized care; and (4) an evaluation of the all-inclusive costs of providing nursing home care and the all-inclusive costs of providing home and community based services to individuals needing and utilizing long term care services and supports for the purpose of developing a short and long range forecast of

anticipated state budget expenditures on a per case basis and in the aggregate.

CAHCF support the state's nursing home rightsizing and rebalancing objectives, but our association has been urging caution about overestimating the state savings of this policy direction and not to undervalue the importance of skilled nursing facilities in the long term care continuum of care in terms of quality of care and savings. There is no question there are savings in the long term by building a home and community based services infrastructure to meet future needs, but the exact amount has been difficult to calculate. Connecticut's has one of the oldest and fastest growing aging populations, especially the over 80 years old cohort. Given these dynamics, all the evaluations conducted to date have indicated there will be strong need for both home and community based providers and skilled nursing facilities in Connecticut. CAHCF agrees that the state policy is not a nursing home care versus home care questions. It's not one or the other, it's both. A thorough evaluation of the costs associated with this policy direction will better inform these policy discussions going forward.

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

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