



March 1, 2022

Written testimony of Matthew V. Barrett, President and CEO of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL) concerning S.B. No. 916 AN ACT PROHIBITING DISCHARGES FROM NURSING HOMES AND RESIDENTIAL CARE HOMES TO TEMPORARY OR UNSTABLE HOUSING.

Good morning Senator Moore, Representative Abercrombie and to the distinguished members of the Human Services Committee. My name is Matt Barrett. I am President and CEO of the Connecticut Association of Health Care Facilities / Connecticut Center For Assisted Living (CAHCF/CCAL). CAHCF/CCAL is a one hundred and fifty member trade association of skilled nursing facilities and assisted living communities. Thank you for this opportunity to submit testimony on S.B. No. 196 AN ACT PROHIBITING DISCHARGES FROM NURSING HOMES AND RESIDENTIAL CARE HOMES TO TEMPORARY OR UNSTABLE HOUSING.

The proposed legislations provides that that no nursing home resident shall be involuntarily transferred or discharged from a facility to a homeless shelter or to a temporary or unstable housing situation. The bill defines "temporary or unstable housing situation" includes, but is not limited to, any housing (1) in a hotel or motel or similar lodging for less than thirty days, (2) in which the resident does not have a legal right of occupancy, or (3) where, in accordance with the resident's discharge plan, (A) the health needs of the resident cannot be met, or (B) the resident has not designated an available and willing caregiver, as defined in section 19a-535c.

We acknowledge our health care and human services delivery system is failing in the area of long-term services and supports when the result is an involuntary discharge of a nursing facility resident to temporary or unstable housing. Housing instability is directly related to health outcomes and discharges to unstable housing circumstances is underserving a population in our health care system that needs more help, not less help. The Department of Social Services (DSS) is currently demonstrating in the recently implemented Connecticut Housing Engagement and Support Services (CHESS) initiative that interventions with individuals who experience homelessness and who have high Medicaid will have better health outcomes with new housing vouchers and services. Eight hundred and fifty individuals will be served, however much more needs to be done and our state should be anticipating a dramatic rise in housing instability due the COVID-19 pandemic. Regrettably, we should also be anticipating that housing instability for our older residents will also increase.

Outlawing involuntary discharges is one step in addressing the issue, but it will fail unless it is accompanied with broader reforms. Therefore, we are recommending additional measures beyond the narrow and simple prohibition in the bill.

First, the bill should establish a funding mechanism to reimburse nursing homes when the facility is unable to transfer or discharge a resident and the resident has been determined to be ineligible for Medicaid covered nursing facility services due to level of care requirements that are no longer met because the individual's health has improved;

Second, our nursing homes will need to intervene earlier in these challenging cases, or they may need to evaluate that they will be unable to address these new housing requirements prior to admission, therefore we recommend that individuals, hospitals, or any entity be required to disclose to the nursing facility prior to admission if the individual is experiencing or has a history of experiencing housing instability.

Third, toward intervening as early as possible in the implementation of discharge planning requirements, the nursing facility should in a timely manner seek the assistance of an area coordinated access network (CAN) housing agency, and we think that a nursing facility resident experiencing or with a history of housing instability should receive priority consideration for services provided in the state Money Follows the Person program or the CHES program. Even with these earlier interventions and utilizing these housing resources, we are not going to solve for the housing instability in our state, but these measures will help.

Fourth, we recommend that the state long term care ombudsman program and DSS monitor this situation closely. A main concern that we must watch carefully is whether the strict requirements prohibiting discharge will cause nursing facilities to refuse admission when they determine they are unable to address these housing-related care planning issues due to the insufficient supply of housing support options in our state and staffing shortages in our nursing facilities. Delayed discharges transitions from hospitals should also be monitored. In this regard, because of staffing shortages now at historic levels, we recommend the effective date of this legislation be reasonably moved to no sooner than July 1, 2023.

SUBSTITUTE LANGUAGE TO S.B. NO. 196 RECOMMENDED to Section

1. (g) in **bold**:

(g) No resident shall be involuntarily transferred or discharged from a nursing facility to a homeless shelter or to a temporary or unstable housing situation. As used in this subsection, "temporary or unstable housing situation" includes, but is not limited to, any housing (1) in a hotel or motel or similar lodging for less than thirty days, (2) in which the resident does not have a legal right of occupancy, or (3) where, in accordance with the resident's discharge plan, (A) the health needs of the resident cannot be met, or (B) the resident has not designated an available and willing caregiver, as defined in section 19a-535c. In the event that a facility is unable to transfer or discharge a resident under this section, and the resident has been determined to be ineligible for Medicaid covered

nursing facility services due to level of care requirements that are no longer met because the resident's health has improved , the commissioner of social services shall provide state funded medical assistance until the resident transfers or discharges in accordance with the requirements of this section. Any individual, or hospital, or any entity seeking admission on behalf of any individual to a nursing facility, shall disclose to the nursing facility prior to admission if the individual is experiencing or has a history of experiencing housing instability. In the implementation of discharge planning requirements for an individual admitted to a nursing facility experiencing or having a history of housing instability, the nursing facility shall, in a timely manner, review housing assistance and support options that may be available to the individual, including the assistance of an area coordinated access network (CAN) housing agency or other municipal or local entity providing housing assistance and support. A nursing facility resident experiencing or having a history of housing instability shall receive priority consideration for services provided in the state Money Follows the Person program or the CHES program. These provisions shall take effect no sooner than July 1, 2023.

ADDITIONAL BACKGROUND FOR THE HUMAN SERVICES COMMITTEE:

State of Federal Rules Prohibit Improper Involuntary Transfer and Discharges

As background, a significant body of state and federal law now prohibits the involuntarily transfer and discharge of nursing home residents to the community except for certain reasons, and only when the nursing homes follow detailed procedures to protect the due process rights of the residents and a discharge planning process. These longstanding rules prohibit an involuntary transfer and discharge if it is medically contraindicated. In short, a safe discharge is required, and only allowed under specific situations, such as the medical care that the resident requires can't be provided in a nursing home setting, or the resident no longer needs nursing home care because the resident's condition has improved, or the health or safety of other individuals in the home is endangered. Strict notice (including a copy to the state long term care ombudsman) must be

delivered in writing within 30 days of the proposed discharge, details of the residents right to contest the discharge and the right to a hearing at the Department of Social Services. The filing of an appeal stays the discharge until a hearing decision is rendered. See CSG 19a-535, the Regulations of Connecticut State Agencies, Section 19-13-d8t, and, 42 Code of Federal Regulations Section 483.15.

Outside Nursing Home Purview to Ensure Compliance with Landlord Responsibilities

Section 47a-7 lays out various requirements for landlords (e.g. makes repairs to ensure premises are in habitable condition, keep all common areas of premises in clean and safe condition; maintain electrical, plumbing, etc. in safe and good working order). Nursing homes cannot be expected to ensure that these requirements are being met by the discharge location – this would require the nursing home to effectively inspect each potential discharge location and make assessments about whether plumbing and electricity are in working order, if repairs are being made etc. This is not within the purview of nursing homes and would be an unreasonable burden to place on them.

Thank you and 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.