

PA 11-236

HB6552

House	7819-7829	11
Human Services	952, 956-957, 981-982, 1097, 1100-1101, 1387, 1391-1392, 1587-1589, 1596-1599, 1622, 1623	20
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2011**

**VOL.54
PART 23
7574 – 7912**

THE CLERK:

House Bill Number 6344 as amended by House "A" and "B".

Total number voting	132
Necessary for passage	67
Those voting Yea	132
Those voting Nay	{0
Those absent and not voting	19

DEPUTY SPEAKER GODFREY:

The bill as amended is passed.

Mr. Clerk, please call Calendar 296.

THE CLERK:

On page 45, Calendar 3 --

DEPUTY SPEAKER GODFREY:

296.

THE CLERK:

Calendar 296, Substitute for House Bill Number 6552, AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF NURSING FACILITY RESIDENTS, favorable report of the Committee on Public Health.

DEPUTY SPEAKER GODFREY:

The Chamber's -- one of the Chamber's favorite nurses, Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

I move for acceptance of the joint committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage. Would you explain the bill please, sir.

REP. TERCYAK (26th):

Thank you.

This proposal is a product of a voluntary, informal workgroup convened by DSS, and comprised of representatives from DSS, DPH, for both for-profit and not-for-profit nursing homes, legal services, and the state long-term-care ombudsman.

The group was convened for the purpose of reviewing state and federal law concerning the transfer, discharge and readmission of nursing home residents in light of some difficult cases and glitches that have arisen in recent years. And the legislation encompasses four main goals, provides greater protection to residents of nursing facilities in the (inaudible) hospitalization, encourages better communication, collaboration between hospitals, nursing facilities, throughout the transfer, discharge and readmission process, clarifies notice requirements

that time -- waits for appeals, and tightens timelines for decision making.

Let's see.

And would now be the proper time for me to ask to call an amendment, sir? You know I'm not very experienced.

DEPUTY SPEAKER GODFREY:

It would be a perfect time, Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much.

Mr. Speaker, the Clerk has an amendment LCO 8144. I would ask the Clerk to please call the amendment and that I be granted leave of the Chamber to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 8144, which will be designated House Amendment Schedule "A". Will the Clerk please call the amendment.

THE CLERK:

LCO Number 8144, House "A," offered by
Representative Tercyak, Gibbons and Senator Musto.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there any objection? Hearing none,

Representative Tercyak, several members have asked you to use your band voice, please, while you are continuing to bring this out. You have the floor, sir.

REP. TERCYAK (26th):

I'm sorry. I'm not allowed a microphone in the band. If you look at any picture you'll see it's true. And I don't think it's because I'm not loud enough, but I appreciate the complaint. Thank you.

This amendment is easy and tightens up a couple things at the request of the Department of Social Services. It says that the definition of hospital in this bill will equal the definition of hospital elsewhere in the law. And to say -- to save time, maybe money, but I think mostly time -- the -- again, the department will be able to accept receipts through electronic mail for mail that they have sent through U.S. mail, either receipt required, return post, return whatever, or certified mail, as long as the method of transmittal of the receipt is approved by the U.S. mail service. Thank you very much, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Tercyak, would you like to move adoption.

REP. TERCYAK (26th):

Very much so, Mr. Speaker. With that, I move adoption.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Will you remark further on House Amendment Schedule "A"?

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker. Mr. Speaker, through you, a couple of questions to the proponent, please.

DEPUTY SPEAKER GODFREY:

Please frame your question, sir.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

I believe I heard you say that some of the changes in the amendment before us were at the request of the Department of Social Services. Is that correct?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Tercyak, do you care to respond.

REP. TERCYAK (26th):

Yes, sir. It is correct. I'm happy to blame them for the delay in bringing out the bill. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

And again, through you, Section 501, lines 14, can you tell me what the difference is in this section from the underlying bill? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Tercyak.

REP. TERCYAK (26th):

Yes. Last year we did a similar bill. And we had meant to be addressing only outpatient services.

Somehow, some inpatient services were included. This year we thought that we would straighten that out and have people separate, because we were offering nursing homes and hospitals two ways to appeal decisions on Medicaid reimbursement.

When some of our agencies objected, they -- they met with DSS, and DSS worked very hard to hammer out an agreement, which, if they're happy with it, and I don't object, then I'm happy with it, and I don't object. It does give some health care providers, I think, a choice of which bite of the apple to take, but neither one is really very good, so I'm comfortable with it.

Through you, Mr. Speaker. Thank you.

DEPUTY SPEAKER GODFREY:

Representative Chapin.

REP. CHAPIN (67th):

Thank you, Mr. Speaker.

And I thank the gentleman for his answers. I would encourage my colleagues to support the amendment before us, and once the bill is amended, that as well. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on House Amendment Schedule "A"? If not, let me try your minds. All those in favor, signify it by saying, aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

Representative Larry Miller.

REP. L. MILLER (122nd):

Thank you, Mr. Speaker.

A question to the proponent of the bill as amended.

DEPUTY SPEAKER GODFREY:

Please proceed, sir.

REP. L. MILLER (122nd):

The nursing homes are under siege. There are a lot of them that are in the -- heading towards bankruptcy court. And we keep losing them every year, so there are declining number of nursing homes in the state of Connecticut. How will this legislation affect what's left in this state? Could they handle what's required of them?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Tercyak.

REP. TERCYAK (26th):

Thank you very much, Mr. Speaker.

And through you to the kind gentleman, I appreciate the question of an industry that, if it is failing, it is because we are killing it. This -- the last amendment gave nursing homes what they were asking for and what we think is just. They are an industry in great trouble. And they have many troubles, some greater than others.

The bill, as amended, will give them recourse to two different ways to appeal decisions by Medicaid. So

that if -- should they have a decision that they feel is an appropriately against them, does not award of reimbursement, for instance, they will have two different appeal processes to choose from, depending on how much -- well, depending on the choice they make. Thank you very much.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Mr. Speaker.

And lastly, the nursing homes were involved in the deliberation on the -- on the bill? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Tercyak.

REP. TERCYAK (26th):

The nursing homes were involved in the deliberation on the bill, in the deliberation and working group that came up with the original bill and again, in the planning for the amendment. The amendment came from, originally, the nursing home industry.

DEPUTY SPEAKER GODFREY:

Representative Miller.

REP. L. MILLER (122nd):

Thank you very much for the answers, and I thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you. Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests please come to the Well of the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so the machine will be locked. The Clerk will take a tally. And the Clerk will announce the tally.

THE CLERK:

House Bill Number 6552 as amended by House A.

Total number voting 133

Necessary for adoption 67

Those voting Yea 133

Those voting Nay {0

Those absent and not voting 18

DEPUTY SPEAKER GODFREY:

The bill as amended is passed.

The distinguished Majority Leader, for a motion.

REP. SHARKEY (88th):

Mr. Speaker, I move that we suspend the rules for immediate consideration of Calendar Number 598, which is Senate Bill 927.

DEPUTY SPEAKER GODFREY:

The question is on suspension of the rules. Is there objection? Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

No objection from this side of the aisle.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Hearing no objection, the rules are suspended.

And Mr. Clerk, please call Calendar 598.

THE CLERK:

On page 36, Calendar 598, substitute for Senate Bill Number 927, AN ACT CONCERNING REQUIREMENTS FOR EARLY CHILDHOOD EDUCATORS, favorable report of the Committee on Appropriations.

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2011**

**VOL. 54
PART 22
6915-7208**

cd/lg/sg/mhr/gbr
SENATE

589
June 8, 2011

SENATOR LOONEY:

Thank you, Madam President.

Calendar page 21, Calendar 649, House Bill 6552;
move to place the item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Continuing Calendar page 22, Calendar 654, House
Bill 6515. Madam President, move to place the item on
the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Also Calendar page 22, Calendar 653, House Bill
6612; Madam President, move to place that item also on
the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

cd/lg/sg/mhr/gbr
SENATE

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June 8, 2011

(Chamber at ease.)

SENATOR LOONEY:

Madam President, if the Clerk might now call the items on the second Consent Calendar, so that we might proceed to a vote on that second Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate on the second Consent Calendar. Will all Senators please return to the Chamber. An immediate roll call has been ordered in the Senate on the second Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the second -- the second Consent Calendar -- the second Consent Calendar begins on Senate Agenda Number 2, substitute for Senate Bill 18. Senate Agenda Number 3, House Bill 6215.

Calendar page 9, Calendar 473, House Bill 6514.

Calendar page 19, Calendar Number 639, House Bill 6554.

Calendar page 20, Calendar 641, substitute for House Bill 6591; Calendar 644, House Bill 5567.

Calendar page 21, Calendar 649, substitute for
House Bill 6552.

Calendar page 22, Calendar 653, substitute for
House Bill 6612; Calendar 654, House Bill 6515.

Madam President, I believe that completes that
items placed on Consent Calendar Number 2.

THE CHAIR:

Thank you.

Senator Looney.

SENATOR LOONEY:

Hmm.

A VOICE:

What's the matter?

SENATOR LOONEY:

Yes.

THE CHAIR:

(Inaudible.)

SENATOR LOONEY:

Thank you, Madam President.

If we might move to a vote on that second Consent
Calendar.

THE CHAIR:

Yes; thank you.

Mr. Clerk, will you call for another roll call vote?

And the machine will be open.

THE CLERK:

Senate is now voting by roll call on the second Consent Calendar. Will all Senators please return to the Chamber. The Senate is now voting by roll call on the second Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

All members have voted? If all members voted, the machine will be closed.

And, Mr. Clerk, will you call the tally, please?

THE CLERK:

The motion -- motion is on adoption of Consent Calendar Number 2.

Total number voting	36
Those voting Yea	36
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar passed.

We'll stand at ease a moment.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN
SERVICES
PART 4
909 – 1221**

2011

Next up will have Michael Starkowski, the Commissioner of DSS for at least a little while longer. Welcome, sir. Since I've welcomed your success and he's not even in the room. And after that we'll switch back and forth between public officials and special needs folks and testimony from the rest of the world, too.

Again, welcome, Commissioner for however long you're back here, welcome back.

COMMISSIONER MICHAEL STARKOWSKI: Hi. Good morning. My name is Mike Starkowski. I'm the Commissioner of the Department of Social Services. Good morning, Senator Musto, Representative Tercyak and members of the Human Services Committee. I know that Secretary Barnes went into a lot of detail about the Governor's appropriation bill and a number of bills. I'll try to keep -- I have written remarks that are probably around ten pages or eight pages. I'll try to keep my verbal remarks short.

SB1013 HB6552
HB6550 HB6551
HB6587 SB1146

The Governor's implementation bill, AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING THE TRANSFER OF FUNCTIONS FROM THE BOARD OF EDUCATIONAL SERVICES FOR THE BLIND AND THE COMMISSION ON DEAF AND HEARING IMPAIRED TO THE DEPARTMENT OF EDUCATION AND SOCIAL SERVICES. I'm just going to vary a little bit from the testimony.

SB 1012

Since at least 1993 both of those agencies have what -- what's been called APO to the Department of Social Services, which means they were attached to us at the hip for administrative purposes. Administrative purposes only is not what most people would think it would be. We don't -- we didn't provide administrative services to them. We

ensures that the deductions that we have in CONNCase are the same deductions that we have for the MSP programs, the Medicare Savings Programs. Right now, because those aren't exactly the same, we have some people that fall through the cracks. They could be on MSP and not on -- they could be on CONNCase and not be eligible for MSP. Once language is solidified everybody in CONNCase would be eligible for MSP.

On -- we have -- on other language in here for the ICF/MRs and for nursing homes that were -- actually authorized us to make the payments that we would make when the user fee is established. Nursing homes have had a user fee for a long time, but we restricted language when we stopped providing rate increases for the nursing homes. We're putting that language back so we have the ability to make the rate increase to the nursing homes when the user fee is adjusted. It's probably starting July 1st, 2012.

On the other section -- it's similar for the ICF/MRs, Intermediate Shared Facilities for the Mentally Retarded. We don't have a user fee in place right now. We're going to put a user fee. The Governor's budget recommended a user fee on July 1st, 2011. And this would allow us to provide that rating fees on -- back to the ICF/MRs. We don't have that before you in legislation right now.

House Bill 6552, AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF NURSING HOME FACILITY RESIDENTS. This is actually a piece of legislation that was put together by an informal working group of stakeholders, people representing the for profit and not for profit nursing homes, the Department of Public Health, DSS, the state Long Term Care and this provides

some clarification on how people are discharged, why they're discharged and encourages better communication between the hospitals and the nursing facilities, clarifies notice requirements. This is -- as far as we know, this is wholly supported by the state long term care ombudsman, by legal services who has had a say in this, by the other participating agencies and all the stakeholders. It's a big benefit to the clients and it really clarifies a lot of information and a lot of procedures in order to try to treat the clients and the residents as best we can.

House Bill 6550, AN ACT CONCERNING MEDICAID COVERAGE FOR SMOKING CESSATION. This bill would actually start the Medicaid smoking cessation on July 1st, 2011 instead of the projected date of January 1, 2012. I think everyone realizes that on the front end of a smoking cessation program, there's costs. Smoking cessation programs have long term savings but not short terms savings in the first year or probably the first two years. It's a long term project where you can save some substantial money as time goes by. In order to start this program on July 1st, 2011, we'd have to add another 3.75 million dollars to the budget. I think in these tight economic times, I don't -- you know, we'll have to oppose this because of the dollars we'd have to add to the budget in order to provide those services before January 1, 2012.

An act concerning -- 6551, AN ACT CONCERNING THE POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF MEDICATION TO RESIDENTS OF RESIDENTIAL CARE HOMES, you know, we passed this in the appropriations act last year, we have the authority to change the way we handle medication administration in the residential

committee? No. Great. Thank you, we appreciate your testimony.

Okay, next up will be Maggie Ewald and Brian Capshaw.

MAGGIE EWALD: (inaudible) representing the State Long Term care ombudsman program. I am here today with the representative of the statewide Coalition of Presidents of Resident Councils, Brian Capshaw. Unfortunately, our state ombudsman, Nancy Schaefer is unable to be here today and sends her regrets.

Many of you are aware that our program advocates on behalf of residents of nursing homes, assisted living communities and residential care homes. As such, we are here to speak to House Bill 6551 and 6552 as well as -- and I want to report a typo error -- what is 1012 should be 1013, related to the Governor's budget recommendations for Human Services.

With respect to 6551, AN ACT CONCERNING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF MEDICATION TO THE RESIDENTS OF RESIDENTIAL CARE HOMES, the ombudsman program understands the dire budget constraints our state currently faces. Our program is therefore cautious in consideration of this proposal to allow nonlicensed personnel to administer to residents of our residential care homes. In light of this proposal, we strongly support mandating proper training along with monthly supervision and monitoring efforts to protect and insure the health of the residents.

In general we also support H.B. 6552, AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF FACILITY RESIDENTS. Historically, we have had to advocate on behalf of nursing home residents who have been sent from a nursing home either

to the ER or to the hospital for acute medical needs and then the nursing home refuses to take them back. In fact, a number of years ago the administration on aging asked the Connecticut ombudsman program why we had such high numbers related to these refusals to readmit.

Because of that we had called on all the major stakeholders to come together and we formed the statewide coalition -- I'm sorry, a state wide Connecticut work group on challenging behaviors, along with research and a white paper, statewide training conferences as well as the website were all products of our work groups and efforts. And for a period of time the refusals to readmit seemed to slow down.

However, we're starting to notice an increase once again. And we feel that this has only -- required increasing and costly resources. You have heard earlier from the Commission of the Department of Social Services that once again, a number of the stakeholders, legal representatives for the Department of Social Services, the for profit and not for profit association as well as Connecticut Legal Services worked for a number of months to try to resolve some of those concerns.

The legislative proposal before you is the result of this effort and we urge your consideration accordingly. While also recognizing changes may be called for as we move forward. In particular, reference to required consultative process on such cases as occurs has become murky and less clear. This proposal then, is an effort to clarify the consultative process and while doing so, leverage such costly resources.

Finally, the long term care ombudsman program has grave concerns regarding cuts proposed in

SB1013

services are vital to our children and to our aging population.

In closing I'd like to quote the great Helen Keller, "The best and most beautiful things in life cannot be seen or even touched. They must be felt with the heart." let her words inspire each and every one of you to please preserve BESB as one agency. Thank you for your time.

JOHN HARRINGTON: And in addition, this population has already had the challenges of not being able to see like you or I. I urge you to allow BESB to be heard as one voice in the state.

REP. TERCYAK: Thank you very much. We appreciate it.

TERESA HARRINGTON: I thank you for letting us go ahead. She's coming home -

REP. TERCYAK: Don't tell people. Don't tell people. Go away, go away. You're done. The clock -- thank you.

Okay, Mag Morelli. Do you know how to behave in a hearing?

Question number one, Ms. Morelli, have you voted yet today? I know there's a special election in your town. Thank you, then you're welcome.

MAG MORELLI: Thank you, Representative Tercyak. My name is Mag Morelli. I'm the president of CANPFA and in the spirit of time I'm here with my chairman, Steve McPherson and we're going to combine our testimony.

HB 6551
HB 6552

STEPHEN MCPHERSON: Good afternoon and thank you for allowing us to speak to day. My name, again, is Steve McPherson, I'm president and CEO of

SB 1013

One Solution at a Time, which outlines the goals and recommendations of this policy initiative. We've also attached additional specific comments related to the Governor's budget proposal. Our comments are provided within the context of a larger vision of creating an integrated and coordinated continuum of high quality and affordable long term health care with our offer of help as we all work to achieve this vision.

MAG MORELLI: Also I have submitted written testimony on -- in support of two bills, House Bills 6551 and 6552. Especially on 6551, it's the ACT CONCERNING POLICIES AND PROCEDURES FOR ADMINISTRATION OF MEDICATION TO RESIDENTS OF RESIDENTIAL CARE HOMES. And we support this bill which would remove the current mandate on residential care homes to employ and train medication technicians. We encourage the Legislature to repeal the mandate and allow the residential care homes to continue to conduct a voluntary medication technician programs that are appropriate for this setting.

The current process mandated for the RCs has been a haphazard approach to implementing a potential cost saving option targeted to the administration of psychiatric medications in the community setting.

This is not good public policy. If there's an identified need for a more effective model of care delivery then we should look to find solutions that make good public policy sense. And we would be more than wiling to participate in finding those solutions.

Just briefly, the second bill is 6552, AN ACT CONCERNING THE DISCHARGE -- TRANSFER AND DISCHARGE OF NURSING FACILITY RESIDENTS. And CANPFA participated in this task force that put

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tmj/vd HUMAN SERVICES COMMITTEE

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10:00 A.M.

together this proposal which contains helpful clarifications of procedures and responsibility for the transfer, discharge and readmission of nursing home residents.

I just thought I'd tell you there are a couple of issues in here that are still outstanding, that we are working in good faith with the legal services on and hopefully will be able to bring a resolution to those two. But it also makes a very good provision that provides a complicated -- a consultative process with the hospitals which is very important in this process.

So thank you, we'd be glad to answer any questions.

REP. TERCYAK: Thank you very much. Glad you worked with legal services on that. Please hurry because we're reaching our deadlines next week and we'll be making a lot of decisions before then. I think your testimony was very clear and you explained the situation well. Thank you. Good luck to all of us here. Thank you.

Give it up, come on.

Erika Tindill followed by Raphael Podolsky followed by Suzanne Capiello.

ERIKA TINDILL: Good afternoon, Representative Tercyak, Representatives Morris, Cook, Lyddy, members of the Human Services committee. My name is Erika Tindill. Okay.

REP. TERCYAK: You're not from BESB, are you? Thank you. Bye, bye.

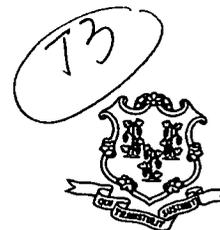
ERIKA TINDILL: I am not. I am not. I am the executive director of the Connecticut Coalition Against Domestic Violence. And thank you very

HB6588

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN
SERVICES
PART 5
1222 – 1528**

2011



Testimony of Commissioner Michael P. Starkowski

Before the Human Services Committee

March 15, 2011

Good morning, Senator Musto and Representative Tercyak and members of the Human Services Committee. I am pleased to be here this morning to present testimony on a variety of bills, including the Governor's budget implementation bills and legislation introduced at the request of the department. I would like to thank the Committee for raising these bills. In addition, I am providing testimony on several other bills that impact the department.

SB1013

HB6552

HB6550 HB6551

HB6387 SB1146

Governor's Budget Implementation Bills:

S.B. No. 1012 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING THE TRANSFER OF FUNCTIONS FROM THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND AND THE COMMISSION ON THE DEAF AND HEARING IMPAIRED TO THE DEPARTMENTS OF EDUCATION AND SOCIAL SERVICES.

Under this proposal, the Commission on the Deaf and Hearing Impaired (CDHI) and certain functions of the Board of Education and Services for the Blind (BESB) will be consolidated within the Department of Social Services (DSS).

In an effort to achieve a smooth, seamless transition, the department has already begun discussions with the leadership at CDHI and BESB, and has meetings scheduled to begin work on a transition plan. We do not anticipate any effect on the quality of services being delivered, as the direct service staff is all transitioning with the program. This will make the transition more seamless for the customers of both CDHI and BESB.

The Department of Social Services is the state's lead agency for services to people with disabilities, and the designated state unit that oversees the Bureau of Rehabilitation Services (BRS). BRS receives federal funding to administer the Title I Vocational Rehabilitation and Title VI Supported Employment programs of the Rehabilitation Act of 1973. The mission of BRS is to create opportunities that enable individuals with significant disabilities to work competitively and live independently. BRS works to provide appropriate, individualized services, develop effective partnerships, and share

And finally, the department requests the following technical corrections:

Section 1 on line 165, after the period, insert:

“Notwithstanding the provisions of this section, the Commissioner of Social Services may, within available appropriations, increase rates issued to licensed chronic and convalescent nursing homes and licensed rest homes with nursing supervision.” This correction will allow for rate increases associated with the changes in the nursing home user fee.

Section 40, strike line 1793 and insert in its place:

“An institutionalized individual, as defined in subsection (B) of section 3029.05 of the Department of Social Services' Uniform Policy Manual, shall not be penalized for the”

On lines 1797 – 1798, delete “by the institutionalized individual”

Bills raised at the request of the Department:

H.B. No. 6552 AN ACT CONCERNING THE TRANSFER AND DISCHARGE OF NURSING FACILITY RESIDENTS.

The proposal is intended to clarify and make more explicit current statutes regarding the transfer, discharge and readmission of nursing facility residents.

The proposal is the product of a voluntary, informal work group convened by DSS and comprised of representatives from DSS, DPH, for-profit and non-profit nursing homes, legal services and the state long-term care ombudsman. The work group was convened for the purpose of reviewing state and federal law concerning the transfer, discharge and readmission of nursing home residents in light of some difficult cases and questions that have arisen in recent years. The group met monthly on an informal basis from March 2010 through the end of last year.

The proposed legislation accomplishes four main goals: 1) provides greater protections to residents of nursing facilities in the event of a proposed transfer, discharge or readmission after hospitalization; 2) encourages better communication and collaboration between hospitals and nursing facilities throughout the transfer, discharge and readmission process, 3) clarifies notice requirements and timelines for appeals and (4) tightens timelines for decision making.

More specifically, the proposal:

- Revises the definition of “self-pay” to exclude a nursing facility resident who has filed an application for Medicaid, but not yet been determined eligible, provided the resident is timely and fully responding to DSS requests for information necessary to determine eligibility.
- Specifies that a nursing facility resident may request a hearing within sixty days of a notice of proposed transfer or discharge, may stay a proposed discharge by initiating an appeal within 10 days of notice and provides an exception to that date for good cause.
- Requires that a final decision in a hearing to contest a nursing facility transfer or discharge must be issued within thirty days from the close of the hearing record, as opposed to the current sixty days.
- Clarifies that a hearing officer may order a facility to readmit a resident, a remedy that is not currently specified in statute, and further clarifies circumstances where a resident retains the right to be readmitted to a facility from which he or she has been discharged.
- Establishes a distinct right to a hearing for a nursing home resident that has been denied readmission to a nursing facility from which he has been discharged.
- Establishes a mandatory consultation between the nursing facility, the hospital and the resident who has been transferred to the hospital from a nursing facility when the transferring facility has concerns about whether the facility can care for the resident upon readmission.
- Clarifies that each day a nursing facility fails to readmit a resident in violation of law shall be a separate violation for the purposes of assessing a penalty.
- Requires a nursing home receiver to comply with resident notice requirements when overseeing a facility closure.
- Requires a hospital to provide a nursing facility with access to a patient and his records for the purpose of care planning when the hospital is proposing discharge of the patient to the facility.

The department requests the following revisions to the bill as currently written:

In line 54, bracket “patient” and insert “resident” after the closing bracket

In line 65, after the comma insert “ the date by which an appeal must be initiated.”

In line 90, delete “facility” and substitute “Department of Social Services” in lieu thereof

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN
SERVICES
PART 6
1529 – 1842**

2011

HUMAN SERVICES COMMITTEE
March 15, 2011

Testimony of Joelen J. Gates

H.B. 6552 An Act Concerning the Transfer and Discharge of Nursing Home Residents

Recommended Action: Support bill with suggested changes and corrections

My name is Joelen Gates and I am an attorney for Connecticut Legal Services, Inc. in Willimantic, Connecticut where I represent and advise elderly clients 60 years of age and older. As part of my work, I represent nursing home residents who face involuntary transfers and discharges in hearings before the Department of Social Services (DSS).

In March 2010, Brenda Parrella, Legal Counsel for DSS, convened a working group comprised of six people to review and revise the state nursing home transfer and discharge statute and the bedhold statute. The working group consisted of two representatives from state agencies (DSS and the Department of Public Health (DPH)), two attorneys who represent nursing facilities and two advocates for nursing facility residents --the Long Term Care Ombudsman and myself. Over the next eight months, we met to discuss problems and questions we have had over the years in interpreting the current statute and worked to draft a statute that addressed those issues. The bill before you, H. B. 6552, is the fruit of those efforts to reach consensus on most of the issues we discussed.

Legal Services urges you to support H. B. 6552 because the proposed legislation is more comprehensive and provides much needed clarity over the current law. However, Legal Services believes the proposed bill does not adequately protect nursing home residents with respect to the timeframe for appeal and the resident's right to be readmitted from a hospital to the next available bed in the nursing home. We ask you to consider making two important substantive changes to address these concerns.

Timeframe for Resident's Right to Appeal

First, H. B. 6552 provides that a resident who disagrees with a proposed transfer or discharge from the nursing home must file an appeal within ten days of receiving the notice of the nursing home's intent to discharge in order to stay the discharge until DSS renders a decision. The proposed legislation allows for the possibility that the resident may be granted an extension of time for good cause shown. However, we do not believe ten days is sufficient time for a vulnerable nursing home resident to initiate an appeal and protect his or her right to stay in the nursing home during the appeal.

Federal law requires states to provide a "reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing" for both nursing home discharges and Medicaid terminations. 42 C.F.R. §431.221. Connecticut provides a 60-day deadline for Medicaid appeals and H.B. 6552 clarifies that nursing home residents may appeal a transfer or discharge up to 60 days after receiving a notice of proposed discharge. The majority of states

allow the resident to stay in the nursing home while the appeal is pending as long as the resident files an appeal before the proposed date for transfer or discharge. Connecticut is in the minority of states that allow a nursing home to discharge the resident before an appeal is heard, if the resident files the appeal more than ten days after receiving the notice. Legal Services would like Connecticut to grant nursing home residents the right to stay in the nursing home as long as they file an appeal before the proposed transfer or discharge date.

Resident's Right to Return to First Bed Available in the Nursing Home After a Hospital Stay

Second, **H.B. 6552** weakens current state law governing the nursing home resident's right to return to the facility after a hospital stay. Current law requires a nursing home to reserve a resident's bed for up to 15 days, when the resident is hospitalized, if the resident is a Medicaid recipient. After that time, if the resident is ready to return to the nursing home, the facility is obligated to give the resident the "first bed available." Conn. Gen. Stat. 19a-537(e)(1). Under current law the "first bed available" could be in a private room, but the proposed legislation changes that to "the first bed available in a semi-private room or private room, if a private room is medically necessary." In other words, if a facility has private room available, but no semi-private rooms, the facility would not have to readmit the resident to the private room, unless the private room was a medical necessity.

This change is significant because if the nursing home which sent the resident to the hospital does not have a semi-private room available, the resident may have to stay in the hospital longer at greater expense to the state while the hospital searches for a different nursing home to which the resident can be discharged. The resident is placed at greater risk of contracting an infection such as MRSA while remaining in the hospital longer than necessary, and the resident and resident's family face the added stress of moving to a different nursing home for the sole purpose of waiting for a room to become available in the home facility. The resident will be subjected to two transfers instead of one. If the resident were readmitted to a private room in the home facility, the facility could move the resident to a semi-private room when one became available. It would be less stressful for the resident to move from a private room to a semi-private room within the home facility, rather than moving from the hospital to an unfamiliar facility and the back to the home facility.

Drafting Errors

There are a few drafting errors in H. B. 6552 which should be corrected.

Line 54 [patient] should be changed to resident.

Line 65 – add back in "the date by which an appeal must be initiated
(There are two appeal deadlines: one is 60 days and the other is 10 days to stay the discharge.)

Line 90 to the [facility] Commissioner of Social Services

T40

canpfa

The Connecticut Association of Not-for-profit Providers For the Aging

Testimony to the Human Services Committee**In Support of****House Bill 6551, An Act Concerning Policies and Procedures for the Administration of Medication to Residents of Residential Care Homes****&****House Bill 6552, An Act Concerning the Transfer and Discharge of Nursing Facility Residents****Presented by Mag Morelli, CANPFA President
March 15, 2011**

Good afternoon Senator Musto, Representative Tercyak, and members of the Committee. My name is Mag Morelli and I am the President of the Connecticut Association of Not-for-profit Providers for the Aging (CANPFA), a membership organization representing over 130 mission-driven and not-for-profit provider organizations serving elderly and disabled individuals across the continuum of care including nursing homes, residential care homes, housing for the elderly, continuing care retirement communities, adult day centers, home care and assisted living agencies. CANPFA members are sponsored by religious, fraternal, community, and municipal organizations that are committed to providing quality care and services to their residents and clients. Our member organizations, many of which have served their communities for generations, are dedicated to providing the services that people need, when they need them, in the place they call home.

On behalf of CANPFA, I would like to submit the following testimony in support of House Bill 6551, An Act Concerning Policies and Procedures for the Administration of Medication to Residents of Residential Care Homes, and House Bill 6552, An Act Concerning the Transfer and Discharge of Nursing Facility Residents.

House Bill 6551, An Act Concerning Policies and Procedures for Administration of Medication to Residents of Residential Care Homes

CANPFA supports this bill which would remove the current mandate on residential care homes to employ and train medication technicians. This mandate is intended to save the state money, but instead it has been very difficult to implement and places a costly and burdensome requirement on a small segment of the long term care continuum. It would be extremely unfortunate if the consequence of this mandate was the loss of homes within this valuable segment of the continuum.

We therefore encourage the legislature to repeal of the mandate and allow the residential care homes to continue to conduct the voluntary medication technician programs that are appropriate for this setting.

The current process mandated for residential care homes has been a haphazard approach to implementing a potential cost saving option targeted to the administration of psychiatric medications in the community setting. This is not good public policy. If there is an indentified need for more effective models of care delivery than we should look to find solutions that make good public policy sense and we would be more than willing to participate in finding those solutions.

We are certainly open to the concept of medication technicians, but such a program needs to be implemented through a well thought out policy that makes sense from a public health and a quality care perspective. The training and educational aspects of the program need to be established in a manner that ensures adequate standards, program consistency, and course availability.

We would like to encourage state agencies to work together to review the current system of training non-licensed persons to administer medications and to see if there is a more effective and efficient way to deliver that training utilizing a universal curriculum and certification process that would be applicable across settings. Long term health care delivery is a growing field and the ability to offer education and training to individuals in the community who can then seek job placement in a variety of settings is an idea worthy of pursuing. Training programs utilizing a universal curriculum taught at the high school and community college levels could offer an opportunity for young people to enter this field. It would also provide a more efficient and consistent mechanism for training staff who are already employed. Finally, an established, universal training module could be utilized to potentially expand the medication technician option to other health care settings as the Department and State Legislature see fit.

House Bill 6552, An Act Concerning the Transfer and Discharge of Nursing Facility Residents

CANPFA supports this proposal which contains helpful clarification of procedures and responsibilities for the transfer, discharge and readmission of nursing home residents. In fact, CANPFA participated in a task force convened by the Department of Social Services to develop legislation addressing these issues. The Department of Public Health, the State Long Term Care Ombudsman, Connecticut Legal Services and the Connecticut Association of Health Care Facilities also participated on the task force and the group's collaborative efforts resulted in the bill that is before you today.

House Bill 6552 contains technical clarifying changes to 19a-535, which governs the transfer and discharge of nursing home residents, as well as provisions clarifying resident rights to appeal transfer and discharge decisions. The bill also contains a significant new provision addressing the readmission of residents from the hospital to the nursing home. The provision requires that when a nursing

home has concerns about readmitting a resident based on whether the nursing home can meet the resident's needs or whether the resident may be a danger to himself or herself or others, then the nursing home must request a consultation with the hospital. The purpose of the consultative process is to ensure that an appropriate plan of care is developed, with an appropriate readmission date, to safely meet the resident's needs. It fosters communication between the caregivers at the hospital and the caregivers at the nursing home. The hospital must provide the nursing home with access to the resident's hospital record and access to the resident at the hospital for purposes of care planning and consultation. If the nursing home refuses to readmit the resident after the consultative process, then the nursing home must notify the resident of its decision, and the resident has a right to appeal.

In the process of developing the proposed language in House Bill 6552, the task force invested significant time and effort and carefully considered and balanced a variety of competing concerns. CANPFA appreciated the opportunity to participate in this productive collaborative effort and we urge the Committee to approve the bill.

Thank you and I would be happy to answer any questions.

Mag Morelli, President
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STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

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HUMAN SERVICES COMMITTEE

PUBLIC HEARING

TESTIMONY

TUESDAY, MARCH 15, 2011

10:00 AM in Room 2a of the LOB

Good morning to the Chairs and members of the Human Services Committee. My name is Maggie Ewald representing the Office of the State Long Term Care Ombudsman Program. I am here today with a representative of the Statewide Coalition of Presidents of Resident Councils, Brian Capshaw. Unfortunately, our State Ombudsman, Nancy Shaffer, is unable to be here today and sends her apologies.

Many of you are aware that the Long Term Care Ombudsman Program advocates on behalf of residents of nursing homes, assisted living communities as well as residential care homes in Connecticut. As such, the Long Term Care Ombudsman Program is here to speak to **House Bills No. 6551 (Raised) and No. 6552 (Raised) as well as SB 1012.**

With respect to **HB # 6551 AAC Policies and Procedures for the Administration of Medication to Residents of Residential Care Homes,** the Ombudsman Program understands the dire budget constraints our State currently faces. Our Program is cautious in consideration of this proposal to allow non licensed personnel to administer medications to residents of our residential care homes. In light of this proposal, we strongly support mandating proper training along with monthly supervision and monitoring efforts to protect and ensure the health of the residents.

We support **HB # 6552 AAC An Act Concerning the Transfer and Discharge of Nursing Facility Residents.**

Historically as a Program, we have had to advocate on the behalf of nursing home residents who have been sent to the ER and/or hospital for acute care needs whenever the nursing home refuses to take them back.

In fact, a number of years ago, the Administration on Aging questioned the frequency of such cases in our State over a period of years. As a result, our Program called on many stakeholders (for profit, not-for-profit associations

of nursing homes, Institute of Living, University of CT researchers, Department of Mental Health and Addiction, Department of Public Health as well as representatives for a variety of legal advocacy services) to form a state-wide CT Workgroup on Challenging Behaviors. Research along with a White Paper, state-wide Training Conferences as well as a Website were products of this Workgroup's efforts.

For a period of time following this effort, such cases seemed to have subsided somewhat. More recently, however, the system has been experiencing increasing numbers of "refusals to readmit" requiring increasing and costly resources.

As such, our State Ombudsman, Nancy Shaffer, met with the legal representatives for the Department of Social Services, the For-Profit and Not-for-Profit Associations as well as CT Legal Services. The legislative proposal before you is the result of this effort and we urge your consideration accordingly while also recognizing changes may be called for as we move forward.

In particular, reference to a required consultative process when such cases occurs has become murky and less clear. This proposal then is an effort to clarify the consultative process and, while doing so, lessen such costly resources.

Finally, the Long Term Care Ombudsman Program has grave concerns regarding cuts proposed in the Governor's Budget. We would like to defer to Brian Capshaw, a representative of the Statewide Coalition of Presidents of Resident Councils, for testimony directly from our State's nursing home residents as to how these proposed cuts would affect them.

SB1012

Thank you.



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT

OFFICE OF THE SECRETARY

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TESTIMONY PRESENTED TO THE HUMAN SERVICES COMMITTEE*March 15, 2011**Benjamin Barnes**Secretary**Office of Policy and Management*HB 6552HB 6588HB 6587SB 1146

Good morning, Senator Musto, Representative Tercyak and distinguished members of the Human Services Committee. Thank you for the opportunity to offer testimony on a number of bills before the Committee today.

House Bill No. 6550 (Raised) - An Act Concerning Medicaid Coverage for Smoking Cessation Treatment

While we support the expansion of smoking cessation treatment under Medicaid, we cannot support this bill as written. Smoking cessation is expanded under the Governor's budget to include all Medicaid clients effective January 1, 2012. This bill has an effective date of July 1, 2011, which would require additional funding of approximately \$3.75 million. In addition, the last sentence under section 1 requires that coverage for Medicaid beneficiaries be limited to no more than two treatment plans per year. We are concerned that DSS' claims processing system is not set up to limit treatment plans in this manner and it is unclear if this limitation would be allowed for under federal rules. Given that the Affordable Care Act prohibits the Medicaid program from excluding coverage effective January 1, 2014, we recommend that this last sentence be stricken. If these two changes were to be made, we would support the bill.

House Bill No. 6551 (Raised) - An Act Concerning Policies and Procedures for the Administration of Medication to Residents of Residential Care Homes

We oppose this bill as the intent of the legislation is to halt the recent initiative to allow administration of medication to residents of residential care homes by specially trained and qualified personnel. This initiative was included in the last biennial budget for annual savings of \$1.8 million. Although there have been significant delays in implementation due to the lack of trainers - DSS issued a Request for Applications in September 2010, but received no responses - DSS is working with other state agencies to set up appropriate training. Given the state's fiscal situation, initiatives such as this one are important in that they enable services to be provided by specially qualified providers at lower cost. In fact, Governor Malloy's budget expands this initiative to the area of home health by allowing specially trained and qualified home health aides to administer oral

and topical medications and eye drops for savings of \$4.2 million when fully annualized in FY 13. Injections and those medications specified by a physician will continue to be administered by a nurse.

House Bill No. 6552 (Raised) - An Act Concerning the Transfer and Discharge of Nursing Facility Residents

We support this bill, which was raised at the request of the Department of Social Services. The bill clarifies and makes more explicit current statutes that are unclear or silent in certain areas in order to provide a more comprehensive guide to nursing homes, their residents and the department. The bill is the product of a voluntary, informal work group convened by DSS and comprised of representatives from DSS, the Department of Public Health, for-profit and non-profit nursing homes, legal services and the state long-term care ombudsman. The work group was convened for the purpose of reviewing state and federal law concerning the transfer, discharge and readmission of nursing home residents in light of some difficult cases and questions that have arisen in recent years.

House Bill No. 6588 (Raised) - An Act Concerning Domestic Violence and Child Trauma

We support this bill, which implements the recommendations of the Speaker's Task Force on Domestic Violence concerning human services.

House Bill No. 6587 (Raised) - An Act Concerning the Department of Social Services' Establishment of a Basic Health Program.

We oppose this bill. The Affordable Care Act provides states the option to create a basic health program for uninsured individuals with incomes between 133 - 200% FPL who would otherwise be eligible to receive premium subsidies in the Health Insurance Exchange. This bill (1) requires DSS to establish a basic health program (BHP) on or after January 1, 2014 that includes all of Medicaid's benefits and (2) creates a BHP non-lapsing account that will be administered by the SustiNet Authority. While there may be the potential for additional federal dollars beyond the normal 50% federal reimbursement, we oppose this bill as we believe it is premature to commit the state to establishing a BHP when there is so much information that is vital in making the decision to establish a BHP that is unknown at this time. The BHP will be funded by the federal government providing the state 95% of the premium subsidies it would have provided if individuals with incomes between 133 - 200% FPL would have purchased coverage through the Exchange. Those premium subsidies will be tied to the Essential Health Benefits Package, which has yet to be developed by the Department of Health and Human Services. Because HHS is not expected to finish its work until later this year, we won't know for quite some time whether the 95% of premium subsidies the feds would have paid in the Exchange would ultimately save or cost money. In addition, the state should study whether it is