

## **PUBLIC HEALTH COMMITTEE**

**MARCH 6, 2020**

### **Testimony of Jean Mills Aranha**

#### **Support Section 12 of G.B. 5020, Repealing and Replacing Section 19a-535a of the Connecticut General Statutes.**

Good Morning. My name is Jean Mills Aranha and I am the Managing Attorney of the Stamford office of Connecticut Legal Services, Inc. (CLS), where I practice elder law. CLS is a private non-profit law firm that provides free legal services to low-income elderly and disabled people, including residents of residential care homes (RCHs). I am testifying here today on their behalf.

Section 12 of the Governor's Bill is proposing changes to Section 19a-535a of the general statutes, which sets out the procedure for discharge from a residential care home. New federal requirements for the provision of home and community based services (HCBS), paid for by Medicaid, require such changes. These federal regulations require that for the federal Medicaid program to pay for HCBS, the residence or facility in which they are provided must actually be a home or community based setting.

CMS set out a number of factors to be considered in determining whether a setting was truly a home or community based setting. One important factor is that the residents of the setting have rights comparable to a tenant under state landlord/tenant law. Section 12 changes the discharge statute for RCHs to create this comparability.

If the RCH discharge law is successfully revised to meet this comparability test, there will be many favorable results for the RCH residents and owners, as the State of Connecticut. Specifically:

1. Currently, the only home and community based services that can be provided in RCHs are through the Connecticut Home Care Program for Elders. If the federal regulations are met for RCHs, individuals residing in RCHs will also be eligible for the mental health waiver, the acquired brain injury waiver, the personal care assistant waiver and others. This will provide significant additional resources to the RCHs to help their residents with mental health or

substance abuse issues. These HCBS waivers will help solve some of the problems that now lead to the need for discharges. They will also bring additional Medicaid dollars to the state.

2. If the RCHs are not recognized as community settings, the 264 elderly individuals in RCHs who currently receive services under CHCPE would lose those services. Furthermore, residents who need services in the future will not be able to get them in their RCH. These people will have to relocate from the place they consider home to receive their services. If they cannot find another community residence, many of them may end up in skilled nursing facilities to receive the care that they need. They will be in a more restrictive and more expensive environment, something no one wants.
3. The RCH industry is concerned with having to be involved in Superior Court proceedings. However, Section 12 retains the discharge process largely as an administrative proceeding. Only at the final appeal state, when all efforts to resolve the issues have failed, is there the possibility of a Superior Court action. This is far less burdensome than the landlord/tenant summary process law, which begins in Superior Court.

For all these reasons, I urge you to support Section 12 of this bill, as drafted.

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