

**PUBLIC HEALTH COMMITTEE  
SUPPORT FOR SECTION 12 OF THE GOVERNOR'S BILL No. 5020  
RESIDENTIAL CARE HOMES  
CHANGES TO DISCHARGE STATUTE 19a-535a  
MARCH 6, 2020**

I am the Managing Director of the Elder Law Unit of Connecticut Legal Services, a non-profit legal aid agency. My testimony is submitted on behalf of my low income elderly and disabled clients, who reside in Residential Care Home (RCHs).

I strongly encourage you to support Section 12 of the Governor's Bill No. 5020, a revision of the discharge statute for RCHs for the following reasons:

1. It will prevent the possible future loss of home care services for 264 elders, who currently reside in RCHs. If RCHs are not considered home and community based settings, these elders, at a minimum, will have to relocate if they want to continue receiving these essential home care services.
2. It will provide better protections for residents, a vulnerable population, many of whom are disabled or have substance abuse problems, if they are at risk of being discharged.
3. We believe the Governor's proposal, **as it is currently written**, will meet the comparability requirements of the federal government in order to be considered a home and community based setting.
4. If the Governor's proposal is changed and weakened, we do not believe it will meet the comparability requirements.
5. It will bring in more federal dollars to residents of CT to support them living in the community and it will expand the pool of individuals who may receive home care services under one of the various Medicaid waivers.

Background Information:

The federal government promulgated regulations which required states to provide home care services only in home and community based settings. It established criteria for states in determining whether a setting is a home and community based. One criteria was whether the residents in a particular

setting had comparable protections to tenants under the state landlord/tenant law. See (42 C.F.R. §§ 441.301).

CT has two options in order to make the current discharge process for residents in Residential Care Homes (RCHs) comparable to protections afforded tenants under the CT landlord/tenant law:

1. Apply the current eviction (court) process to residents of RCHs (see Conn. Gen. Stat. §47a-23 et seq.), or
2. Retain the current administrative hearing process for discharges (see Conn. Gen. Stat. §19a-535a) with significant revisions, as in the current proposed bill.

We believe the Governor's Bill No. 5020, Section 12, would meet the comparability requirement because it proposes significant changes to the current discharge statute and would provide greater protections for residents living in RCHs, including:

1. Improve the current notice of discharge by providing more information to the resident about their rights.
2. Increase the time to request a hearing from 10 days to 20 days, after receiving a notice of discharge.
3. The right of the owner and resident to review records prior to hearing and to subpoena witnesses.
4. The right by the resident to ask for additional time to find alternate housing, if there is an adverse decision against the resident.
5. The right of either party to appeal to the Superior Court, if they lose, which is essential in order to meet the comparability requirement.

If the eviction process was applied to residents of RCHs, it would provide significantly more protections than even the Governor's proposed changes in section 12 to the current discharge process, and it would clearly meet the comparability test. However, legal services is willing to compromise and support the Governor's bill, provided it is not significantly weakened. We recognize that inherently RCHs are a different model of a "home" than someone living in an apartment. RCHs provide not only housing, but meals and care for a vulnerable population. We are also sensitive to potential increased costs for RCHs, if they are required to go through the eviction/court process.

However, the discharge process must meet the comparability requirements. If the Governor's Bill No. 5020 is watered down in any significant way, it will fail that test.

Please support Governor's Bill No. 5020, Section 12, as currently drafted.

Submitted by,

Kevin Brophy  
CT Legal Services