

# Aging Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-6552

AN ACT CONCERNING THE RIGHTS OF RESIDENTS IN LONG-TERM CARE FACILITIES TO USE THE TECHNOLOGY OF THEIR CHOICE FOR VIRTUAL

**Title:** CONNECTIONS TO FAMILY, FRIENDS AND OTHER PERSONS.

**Vote Date:** 3/11/2021

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/9/2021

**File No.:**

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## **SPONSORS OF BILL:**

Aging Committee

## **REASONS FOR BILL:**

An increased use of technology can improve resident safety in a long-term care facility, as well as providing better opportunities for a resident to maintain closer contact with their family members, friends and care giving team. The pandemic highlighted that the lack of resident technology caused isolation for many long-term care residents which resulted in an overall decline in their wellbeing. Additionally, not being able to visit either in person or virtually caused family members and friends a great deal of concern. Also, the use of technology by residents can increase the timelier response from long-term care employees should there be a medical emergency. The bill allows residents of long-term care facilities to use technology of their own choice and authorizes the Long-Term care ombudsman to develop forms and notices in consultations with the Dept. of Public Health.

The JFS language removes duplicative language requiring residents to prove their technology doesn't violate fire and safety codes as nursing homes are given responsibility to determine same lower in bill; also removes facility's right to shut off internet access in an emergency and when internet disrupted to just when internet disrupted as testimony was that such equipment might be most needed in an emergency to let family know residents are okay. JFS language also changes subsections (b) and (f) to require a resident to cease using technology for virtual monitoring if a roommate withdraws consent and requires resident to inform facility in writing on forms prescribed by Long-Term Care Ombudsman of withdrawn consent.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

**Senator Paul Formica, Connecticut General Assembly:** His testimony was in support of this legislation in that it would improve access to virtual connections between long-term care facilities residents and their family members.

**Senator Cathy Osten, Connecticut General Assembly:** She is in support of this proposal indicating that the bill is critical to improving the lives of residents of long-term care facilities as we continue to fight the pandemic.

**Rep. Kathleen McCarty, Connecticut General Assembly:** She offered testimony in support of this proposal. The pandemic highlighted the need for the use of technology in long-term care facilities by residents and their families. Many residents were cut off from family and friends which resulted in increased isolation, loneliness and depression during this difficult time.

**Mairead Painter, Commissioner, State Long-Term Care Ombudsman:** She supports this bill and has been asked to offer this support on behalf of the Executive Board of Presidents of Resident Councils as well as individual Presidents of Resident Councils. For years they have told resident in long-term care communities that their room is their home and they believe that residents should have access to any and all technology that they feel best supports the quality of life in their home. They also believe that the use of such technology shall not violate a resident's right to privacy.

**Dept. of Social Services:** They indicate that they are in support of the proposal in concept but would like to clarify language as providers currently have the ability to report costs associated with internet upgrades and capital improvement on their annual cost report for reimbursement under Medicaid. (in section (c) (1)).

**Dept. of Public Health:** They indicate that they strongly support any language that facilitates communication between the resident and their representatives and family members. As we have learned during the pandemic with visitation is restricted virtual communication with family and friends is crucial to the well-being of the resident. They also point out that for electronic monitoring of residents in the long-term care setting, there are federal conditions that pertain to the nursing home setting. Federal Regs. state that a nursing home resident has the right to personal privacy of not only their own physical body, but their own personal space including accommodations and personal care.

**Michael Werner, Attorney, Commission on Women, Children, Seniors, Equity and Opportunity:** They offered testimony in support of this bill. The recent pandemic has shown that the enforced isolation of seniors and the disabled has led to an epidemic of "failure to thrive" among this population. The bill addresses potential privacy concerns among staff, other residents and impacted roommates by providing for constructive notice mechanisms.

#### **NATURE AND SOURCES OF SUPPORT:**

**Mag Morelli, President, LeadingAge Connecticut:** Their testimony is in support of this proposal, but they offer concerns and comments on it. They have provided extensive comments with the intent of assisting in the development of a statute that addresses the

many complex needs and concerns of ensuring resident rights within this highly regulated setting and in consideration of the situation that impact many nursing home residents. They point out that the bill lacks safe guards to protect patient privacy. Other states have laws governing electronic monitoring and they offer what they believe to be good public policy. They think the bill burdens facilities with additional operating costs, and they believe that it be reimbursed in full through an increase in Medicaid rates. They also feel that the technology when used for monitoring residents should require notification and consent of the resident and finally, they feel the managed residential community (MRC) be removed from the bill since they are private residential settings.

**Kathleen Flaherty, Executive Director, Connecticut Legal Rights Project, Inc.:** They are in support of this bill but have offered a suggestion that the committee amend the statutes relating to the bill of rights for long-term care facility resident by reviewing the Patients' Bill of Rights for psychiatric facilities.

**Jean Mills Aranha, Attorney, Connecticut Legal Rights, Stamford:** They are in support of this proposal and feel it balances the right of a resident to communicate through technology with the privacy rights of staff, roommates and other persons. It is thoughtfully crafted proposal worthy of support.

**Matt Barrett, President, Connecticut Assoc. of Health Care Facilities:** They offered comments and suggestions for this bill. It is recommended that the provision on line 13, allowing a legally liable relative who is not a conservator, etc. to provide consent for the use of the monitoring or visitation technology be also required to provide verification that the resident was unable to provide consent and that these asserting be properly witnessed by impartial parties. They also feel that the cost of providing internet access, electricity and power source for the monitoring or visitation technology at no cost to a resident be clarified to show a pass-through cost reimbursement add-on for any costs. Finally, for situation where roommates refuse to consent to the use of virtual monitoring that lines 105 – 116 be revised to assure that any efforts required of the facility to seek an acceptable accommodation be unbiased and respectful of the non-consenting roommate and the resident seeking the virtual monitoring.

**Brian Cantor, Attorney, Connecticut Bar Assoc.:** They offered their comments in support of this bill. He suggests that the bill has the correct balance with privacy rights of the residents and their roommates and who is responsible for paying for any extra expenses for internet connectivity. He did express some concerns about the impact on the long-term care facility employees and the increased scrutiny from residents loved ones about living conditions and level of care, but he believes that the long-term results will be helpful.

**AARP Connecticut:** They offered testimony in favor of this proposal with suggestions and comments. In Section 1(b) they recommend removing "intended use" from the bill. Section 1(b)(6)(B) required residents to verify that the technology complies with the state and federal life, safety and fire codes. They believe this to be an unnecessary barrier. Section 1(c)(2) would allow the facilities to establish policies and procedures on the use of technology and they are concerned that the resulting policies could be so restrictive as to make it impossible for resident to use the technology. In Section 1(c) lines 125 and 128 they recommend adding "or the residents' representative" following each mention of "the resident". And finally, adding

language to allow residents access to recourse if a nursing home does not permit them to install technology as permitted by this legislation.

**Nancy Randall, Norwich:** She offered testimony in support of this bill Her comments are based on her families experience over the last year with her 98-year-old father and the distress caused by the pandemic on their whole family.

**Kathy Null, AARP CT Volunteer:** She supports this proposal and the fact that it provides detailed responsibility requirements for both the resident and the facility to protect the privacy for all. For families and friends who do get the virtual monitoring, it will give them a sense of relief to see their loved ones.

**Valerie Marcella, Niantic:** She supports this bill and feels that the use of technology can reduce and possibly prevent abuse and or neglect. She recounted her own experiences with her grandmother and her own situation and believes that this bill would make her and others more comfortable.

**Patricia Lang, Newington:** She offered testimony in support of this legislation.

**Stacy Altomari, Waterbury:** She submitted testimony in favor of this bill and testifies on behalf of her mother's safety and sake. Since the pandemic and its restrictions her mother went from using a walker and visiting weekly with one of her 5 children to only sitting in a wheelchair or sleeping most of the time. Sen went from eating and socializing and being playful to sleeping most of the time. She does not understand how her mother has less rights than a prisoner.

**Tina Grant, e-mail testimony submitted 3/5/21:** Her testimony was in support of this bill. She offered her comments and her experiences with her mother situation in her nursing facility. She understands the concerns about privacy, but the care of each resident must be a top priority and indicates that if they did not have a camera installed with her mother, they would have never known how long our she was on the floor of her room.

**Elizabeth Stern, Stonington:** She offered testimony in support of this legislation saying that this is not a new issue and it has been studied thoroughly in 14 other states.

**Sharon Echtman, e-mail testimony submitted 3/9/21:** She is in support of this proposal and that her husband regressed rapidly after the pandemic began.

#### **NATURE AND SOURCES OF OPPOSITION:**

No testimony in opposition submitted.

**Reported by: Richard Ferrari, Assistant Clerk  
Richard O'Neil, Assistant Clerk  
Joe Perkus, Clerk**

**Date: 3/25/2021**