

Legislative History for Connecticut Act

PA 16-8

SB280

Senate	664-665, 672-673	4
Human Services	541-544, 572, 575-577, 580, 583-586, 608-609, 678-680, 694-701, 703-705	29

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2016**

**VOL. 59
PART 2
356 - 678**

/je
SENATE

April 19, 2016

SENATOR COLEMAN (2ND):

Madam President, if there is no objection, I would ask that this item be placed on our next Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir. Mr. Clerk.

THE CLERK:

On page 36, Calendar 164, Substitute for Senate Bill number 280, AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN NOTICE TO NURSING HOME RESIDENTS.

THE CHAIR:

Senator Moore.

SENATOR MOORE (22ND):

Good afternoon again, Madam President. Madam President, this bill is to inform patients in nursing homes and long-care facilities of services available from the office of the long-term care ombudsman and their rights as patients of the facility when the facility submits it's intent to terminate service or in instances of substantial reduction in bed capacity.

THE CHAIR:

Will you remark on the bill? Will you remark on the bill? Seeing no one. Senator Moore.

SENATOR MOORE (22ND):

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I urge support. I ask that if there is no objection we place this bill on the Calendar.

THE CHAIR:

Seeing no objection, seeing no objection, so ordered, ma'am.

SENATOR MOORE (22ND):

Thank you, on the Consent Calendar?

THE CHAIR:

Yes.

SENATOR MOORE (22ND):

Thank you.

THE CHAIR:

Senator Duff, we have one that we have skipped? Mr. Clerk. The bill went on consent, going on the Consent Calendar. The next bill is the page 29 sir, 406, you have that on consent?

THE CHAIR:

On page 29, Calendar 406, Substitute for Senate Bill number 347, AN ACT ESTABLISHING A PROGRAM FOR COURT APPOINTED SPECIAL ADVOCATES IN CERTAIN JUVENILE COURT MATTERS.

THE CHAIR:

Senator Coleman, good afternoon, again, sir.

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second Consent Calendar and then follow it up with a vote on the second Consent Calendar please.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 28, Calendar 400, Senate Bill 109.

Page 28, Calendar 403, Senate Bill 350.

Page 29, Calendar 406, Senate Bill 347.

Page 36, Calendar 164, Senate Bill 280.

Page 37, Calendar 179, Senate Bill 222.

THE CHAIR:

At this time, Mr. Clerk, will you call for a roll call vote, and the machine will be open on the second Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call on the second Consent Calendar
for today has been ordered in the Senate.

THE CHAIR:

Have all members voted? Have all members have voted? The machine will be closed. Mr. Clerk, will you please call the tally.

THE CLERK:

On today's second Consent Calendar,

Total Number Voting	34
Those voting Yea	34
Those voting Nay	0
Absent and not voting	2

THE CHAIR:

The Consent Calendar passes. Senator Looney.
Senator Looney, good afternoon, sir.

SENATOR LOONEY (11TH):

Good afternoon, Madam President. For a point of personal privilege.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY (11TH):

Thank you, Madam President. Madam President, I just wanted to offer congratulations and have the Chamber join in congratulating our own Senator Tim Larson for successfully completing the Boston Marathon yesterday and even more impressively being with us today in good health to talk about it after. Congratulations once again.

(Applause).

THE CHAIR:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**HUMAN SERVICES
PART 1
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HUMAN SERVICES COMMITTEE

March 3, 2016
12:00 P.M.

SENATOR MOORE (22ND): Thank you. I will now recess the Human Service Committee meeting. The votes will stay open until 4:00 o'clock p.m. I will now be opening the public hearing. So, we have a list of Bills in front of us.

So, I want to welcome you to our public hearing. The first hour is for legislature and department heads, followed by people who have signed up, limited to three minutes. And I just want to say, we do appreciate written testimony. Many people are in other meetings and won't be here to hear your testimony, but your testimony is very important, and I will begin by asking Commissioner Betsy Ritter, from the Connecticut Department of Aging, who will be speaking on Bill No. 280.

COMMISSIONER RITTER: Thank you, Senator Moore. Good afternoon. Good afternoon, also, to the Committee on Human Services, and I want to thank you very much for raising this bill on behalf of the State Department on Aging. I am here - my name is Betsy Ritter. I am the Commissioner of the State Department on Aging, and I am here in support of Senate Bill 280, AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS.

When a nursing home facility intends to close, our current law requires that a copy of the Letter of Intent (or LOI) which is the official notice to the State, also be sent to all of the residents of the facility and their families.

This proposed amendment to the existing statute will require that notification be accompanied by a letter from the Office of the State Long-Term Care Ombudsman, which clearly outlines the rights of

residents to carefully consider and determine their relocation plans. The LOI is initially sent to the Department of Social Services, and it sets in motion a processing of the facility's request to close. The next step is a public hearing, at which DSS hears testimony from interested parties regarding a potential closure.

Oftentimes, many residents concerned about their next place of residence have already moved on or been discharged in the absence of, perhaps, information that could be helpful to them in their planning. The receipt of the LOI can be very disconcerting to an affected resident and their family, and it may be difficult for them to understand all of the options that are available to them and, therefore, it is important, from our perspective, to balance the message from the facility's perspective, with the assurance that the residents have certain rights and protections.

The mandate of the Long-Term Care Ombudsman Program is to ensure that residents' welfare and rights are protected, and the addition of this joint letter from the State Department on Aging and the Office of the State Ombudsman will present a more balanced picture to residents and their families about what is happening, what their legal rights and protections are, and that they can take time and not be rushed into any decisions.

The letter also has the potential to enhance opportunities for Money Follows the Person and to engage residents and families in discussing all of their options for community living, thus forwarding the governor's initiatives to rebalance the state's long-term services and support system. The State of Connecticut is likely to experience more nursing

home closures in the future. We feel enacting of this legislation now will provide assurances to residents at a difficult time and ensure they have the greater opportunity to review all of their options should the DSS commissioner decide to grant the Home's request to close.

Thank you very much, as I said, for raising this Bill and for the opportunity to come and talk to you about it. I am happy to answer any questions.

SENATOR MOORE (22ND): Thank you, Commissioner. Any questions?

COMMISSIONER RITTER: I might add that, on your list also, the Long-Term Care Ombudsman will be here a little later in your hearing and has additional details that she can provide about the letter and its contents.

SENATOR MOORE (22ND): Thank you. Questions?

Representative Wood.

REP. WOOD (141st): Thank you, Madam Chair, and thank you, Commissioner, for being here. Question on this - What's the time table now that exists for this letter being sent from - currently, it is sent from DSS, and you're asking that it also be sent from your agency?

COMMISSIONER RITTER: What happens currently is, when the facility determines that this is the course of action that they are going to pursue, they send their formal Letter of Intent to Close to the Department of Social Services. At that time or very

shortly thereafter, they send a copy of that formal letter to their residents and their families.

REP. WOOD (141st): So, is it six months? Is it two weeks?

COMMISSIONER RITTER: No, it's right at that time.

REP. WOOD (141st): Is there any time table at all, a time frame that has to be adhered to? That's what I'm asking.

COMMISSIONER RITTER: I would suggest you ask the Long-Term Care Ombudsman. I believe it's just immediately is what it states, but -

REP. WOOD (141st): So, whenever - but how long do they have to close the nursing home?

COMMISSIONER RITTER: That's a different process.

REP. WOOD (141st): That's a different - okay.

COMMISSIONER RITTER: Yes. The intent of this is to accompany the formal letter with this letter so that it would come literally at the same time, in the same envelope, to the same people.

REP. WOOD (141st): Great. Thank you very much. Thank you, Madam Chair.

SENATOR MOORE (22ND): Any other questions? Thank you for your time, Commissioner.

COMMISSIONER RITTER: Thank you.

is not caught up with the fact that Connecticut law provides for other forms of entity. So, thank you very much for allowing me to testify. I'd be happy to address any questions.

SENATOR MOORE (22ND): Are there any questions?
Thank you for your comments.

JUDGE PAUL KNIERIM: Thank you very much.

SENATOR MOORE (22ND): Thank you. Next is Matthew Dillon.

[DEAD SPACE - NO AUDIO FROM 1:48:07.1 TO 1:51:32.6]

REP. ABERCROMBIE (83RD): Thank you for your testimony. Questions from community members? No?

Thank you very much. We appreciate it. Have a great day.

Nancy Shaffer, followed by Suzi Craig.

Good afternoon, Nance.

NANCY SHAFFER: Senator Moore, Senator Markley, Representative Wood and esteemed members of the Human Services Committee. My name is Nancy Shaffer, and I'm the state long-term care ombudsman. It's my honor to serve the 30,000+ residents of the State of Connecticut who reside in nursing homes, residential care homes and assisted living facilities. It's my responsibility as a state ombudsman to come before

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are asked to wear a multitude of hats and do a huge variety of things, and it's a great strain on them and, again, when we have an increased acuity, we have families who are more stressed. To improve the social services to those individuals is only beneficial to them, but I think it's also beneficial to the nursing home, itself.

I don't believe that the improved staffing measures - the nursing home staffing measures - are going to carry a fiscal note either for the state, according to studies, or for the providers and staffing at higher levels. The social work staffing, I think that providers may make an argument that that could increase some cost for them, but I believe, in the end, it's a win for the nursing homes to make those improvements, to decrease the numbers of incidents and accidents and the bad outcomes with improved social services.

I would also like to talk to you about AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS, and essentially, this is a notice that I've proposed would go with the Letter of Intent and, Representative Abercrombie, we've spoken of this. Most of you may know that there's a whole process that's legislatively mandated - statutorily mandated - to the process by which a nursing home is going to propose closing must go through, and it starts with that Letter of Intent.

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I just want to read you a piece of the Letter of Intent that just went out late summer, and I quote, "The decision to close comes after years after painstaking effort to revitalize the Center's declining census. While the Certificate of Need must be approved by DSS and may take up to 90 days,

placement coordinators will be on staff to assist you and your loved ones with your options regarding alternate placement options. While you are not required to move at this time, our placement coordinators will be available to ensure a seamless transition should you choose a voluntary transfer." When that Letter of Intent goes out, one of my colleagues said panic sets in. The staff - the families are suddenly presented with the very distinct possibility - the message they're hearing is that the home is going to close. It's presented as if it's a done deal.

So, the proposal I have suggested is that, included in the Letter of Intent is an accompanying letter from the Office of the State Ombudsman, simply outlining the rights and the assurance that residents have the right to make an informed choice and to take their time. And, I do believe that that's a real win for the state. We have a very robust Money Follows The Person program that can come in and talk with people about their options, and they can look at community living.

In this particular instance - the quote that I read to you - by the time the CON Hearing took place 30 days later, 60 percent of those residents had discharged. So, at the time of the hearing, it's not a viable financial business anymore and it does become sort of that done deal with closing. But, we found in that case, and we find in most all of the nursing home closures, oftentimes people are moving pretty immediately to another nursing home. And, if we have a nursing home that's part of a chain, oftentimes we see those nursing home residents going to a sister facility within that chain, so I think this letter would actually be a best practice within

the country. My understanding is that there's no other state that has this. We have probably two to three nursing homes a year that close. We have one right now. We have one anticipated possibly. We have one that just closed. There's a lot of residents that we could be helping to move to the community, and we just want to give them that assurance that they've got that time to make those decisions.

Thank you. I have written testimony, and I'm happy to answer any of your questions.

REP. ABERCROMBIE (83RD): Thank you, Nance, and thank you for what you do. Questions from committee members? No? So, I would just like to take the opportunity to thank you for the notice to the nursing home residents. You know, it must be very, very frightful to be a resident in a nursing home and to get that notice and have no idea where you go from here. So, for them to have the ability to have someone like yourself come in and explain their options, I'm sure it's going to be a comfort level. And, the agency has agreed that it's a good portion to add to the notice, so I think it's a win-win for everybody, so thank you very much for that.

And then, you know, our friend, Brian, he's really being missed here. His passing was really felt by this committee. You know, I've been on this committee 11 years, and Brian's been coming up here for a long time, so it was really a shock, you know, when he passed. And, we know it was all sudden. We were just with him the week before, so, yeah, we're feeling it. So, thank you.

MATTHEW BARRETT: I believe it is specific to direct care staffing, like skilled nursing or um - yeah, for those providing direct care.

REP. ABERCROMBIE (83RD): So under direct care - it's a supervisor? So, say - and I'm just trying to understand this - because this bill has been around for many years now. So, under direct care - say there are five who are on that board, right? If one of them is a supervisor, is he or she considered direct care?

MATTHEW BARRETT: You know, I'd have to - perhaps the speaker after me might know the specific answer to that question. I don't know the answer. If no one knows the answer, I'd be glad to supply that information to the committee. I'm not sure.

REP. ABERCROMBIE (83RD): Okay. So, I'll talk to Mag because maybe she'll have the answer for that when she comes up.

MATTHEW BARRETT: She probably will.

REP. ABERCROMBIE (83RD): Okay, thank you. Any questions? Okay. Thank you very much. Appreciate it.

Guess who's up next? Ms. Mag Morelli.

MAG MORELLI: Good afternoon, Representative Abercrombie, members of the committee. My name is Mag Morelli. I'm the president of LeadingAge Connecticut, a membership association of not-for-profit organizations, representing the entire field

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REP. ABERCROMBIE (83RD): Thank you for not making me beep you.

MAG MORELLI: I do just want to say, we do support the ombudsman's bill, also, 280, and we submitted testimony on that.

REP. ABERCROMBIE (83RD): Great. So just a quick question, for Section 2 - that has to do with the social workers, right?

MAG MORELLI: Mm-hm.

REP. ABERCROMBIE (83RD): So, my understanding is the ratio right now is one social worker to 120 individuals in a nursing home, is that correct?

MAG MORELLI: It goes by hours, so, depending on the size of the nursing home - I believe now it's - oh, I had it right in front of me - it's 30 residents to one hour. Is that how it goes, Matt? Wait, wait, wait. It's one to 30 beds and you need 10 hours a week of social work. That's the minimum. But, you need to meet the needs of your residents, so if that's not going to meet the needs of the residents, you need to staff higher. So, for every 30 beds, you need 10 hours a week of social work hours. So, if you have 30 to 60 beds, you need 20 hours per week. So, you would need a part-time person if you had a 30-bed nursing home.

REP. ABERCROMBIE (83RD): So, Mag -

MAG MORELLI: Mm-hm.

REP. ABERCROMBIE (83RD): I'm not a math person here, but I don't understand how one person, one social worker, could even accomplish that, right? So, for -

MAG MORELLI: Well -

REP. ABERCROMBIE (83RD): - 30 beds, that's 30 individuals -

MAG MORELLI: Mm-hm.

REP. ABERCROMBIE (83RD): They're given a half hour - is that what you just said - per person per week with a social worker?

MAG MORELLI: Right, well, they're given - for 30 beds, 10 hours - yes, a week. Well, it depends on what - now, if you had a subacute wing - if you're doing a lot of admissions and discharges, you're going to have many more social work hours in your facility. You will need them just to facilitate the admissions and discharges. If you have a lot of long-term residents, and you're working in a team, then the social workers are working with a team to work on a care plan and to do the MDS and periodic - you know, they don't do the MDS every day, they do it periodically - you may be able to do that at the minimum. You may not be able to. If your residents need more social work hours, then those ratios do not hold. What holds is the standard that you need the number of social work hours to meet the needs of your residents.

REP. ABERCROMBIE (83RD): So, let me ask you this - so, if this is the base that we're working from,

what's the average amount of social workers nursing homes hire? Can you get that information?

MAG MORELLI: It depends. I will try to get you that information. I've been asking my members. It varies across the board. And, like I said, it depends. I have one large nursing home that staffs very high social work in one area of the nursing home because they do a lot of admissions and discharges, and lower but above the standards in another part of the nursing home. So, it's very dependent on actually your census and what the needs of the patient are.

REP. ABERCROMBIE (83RD): And that would be helpful, especially, like you said, in the acute areas. So, if you take an average nursing home that has two wings, the general population for - sorry if that's not the correct terminology, but in my brain, that's the easiest way to identify it - than a more high needs section where you might need more. I'd like to know what those numbers work out to be.

MAG MORELLI: Sure.

REP. ABERCROMBIE (83RD): If you could, as close as you can.

MAG MORELLI: Yes.

REP. ABERCROMBIE (83RD): You know, just an average - I'm not asking for the exact numbers from each.

MAG MORELLI: Yes. It's harder to get them than the other - the nursing staff numbers - but I definitely will try to get it. I know the nursing home has a

little over 60 beds, so they're staffing as if there were - um, if, you know - so the additional 30 - so they have to staff as if there are 90 beds. You know, they currently have - I believe they provide 40 hours of social work staff, they said. But, in 2020, with this, they would need to, not only increase that to 50 hours, but then add two additional full-time social workers, so that would be an additional two full-time employees plus another someone to provide an additional 10 hours. So, that's a significant increase for a small nursing home that's taking care of long-term care residents. So, it's apples and oranges sometimes, and that's why you have that flexible standard in the public health code.

REP. ABERCROMBIE (83RD): So, would the nursing homes be open to perhaps adjusting the rate that we currently use for social workers if we took the language out about forecasting to 2020 to that number?

MAG MORELLI: Without any funding attached to it? I would have to get back to you on that, Representative Abercrombie. The funding issue probably would not affect all of them because this change wouldn't affect them, but those that it would affect would definitely need the funding for the change.

REP. ABERCROMBIE (83RD): Thank you. Questions from committee members? No?

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MAG MORELLI: Did you want to ask me about the Director of Nursing?

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REP. ABERCROMBIE (83RD): Thank you for your testimony and for what you do. Any questions from members?

Thank you very much. Have a great day.

DINA MEZZA: Thank you. You, too.

REP. ABERCROMBIE (83RD): Deb, followed by Kathleen Flaherty.

DEBORAH CHERNOFF: Good afternoon, everyone. For the record, my name is Deborah Chernoff, and I serve as public policy director for District 1199, among our membership for more than 7,000 nursing home workers. I am thanking you for this opportunity to testify in favor of two bills, which focus on better meeting the needs of nursing home residents. You know, it's always an interesting day in this building when I'm forced to be on the same side of a bill as Matt, but – and you knew there was a "but" coming – while we support any improvement to staffing levels in nursing homes, we believe future legislation needs to go a lot further.

Based on current data, this bill would affect only six nursing homes in the State of Connecticut, and the data from Medicare from just this past January, indicates that the average staffing level in Connecticut is currently 3.1 hours per resident per day, and just for some context, that puts us 33rd in the nation in terms of average staffing levels, and it falls far short of the 4.1 hours that is recommend by Consumer Voice and all the leading advocacy organizations and well supported by

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research. We'd also recommend, in the future, when things are a little brighter, that we also take a look at staffing ratios that go by shift, which is much more reflective of the way people actually staff and is much easier to monitor.

I also want to offer our strong support for SB 280, about the Ombudsman's Notice. It's been described for you very well by the commissioner and by Nancy Shaffer, but I just want to add a little personal experience from having gone through some of these closures. We have seen all too often what happens when a nursing home files the initial Letter of Intent. Although that's just the initial phase of a long process, residents are often panicked into leaving immediately, as these notices are often accompanied by misleading news coverage or misunderstanding of their right to find an alternative placement. We believe requiring this written notice could mitigate the panic and confusion that ensue that we've seen in the past, with some residents waiting in the lobby with all of their possessions, being relocated far from their original community, sometimes not even knowing where they are going. For residents, the closure of a nursing home is an eviction, a disruptive event that can have long-term emotional and health consequences.

We applaud any and all efforts to reduce the potential for trauma and hasty decision making, and we're looking forward very much to working with the State Long-Term Care Ombudsman and the department of Aging to support residents' rights. Thank you for this opportunity to testify.

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STANDING
COMMITTEE
HEARINGS**

**HUMAN SERVICES
PART 2
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2016



SEIU Healthcare. **United for Quality Care**

Testimony of Deborah Chernoff
Public Policy Director
New England Health Care Employees Union, District 1199
Before the Human Services Committee

Supporting: SB 278, AAC Nursing Home Facility Minimum Staffing Levels, and SB 280, AAC the Long-Term Care Ombudsman's Notice to Nursing Home Residents

Good afternoon, members of the Human Services Committee. For the record, my name is Deborah Chernoff and I serve as Public Policy Director for District 1199, representing approximately 28,000 caregivers in Connecticut, including more than 7,000 nursing home workers.

Thank you for this opportunity to testify in support of SB 278 and SB 280, two bills focused on better meeting the needs of nursing home residents.

SB 278, An Act Concerning Nursing Home Facility Minimum Staffing Levels, would raise the current minimum staffing ratio to 2.3 nursing staff hours per resident per day. This is a very modest improvement on the current minimum, which was set at 1.9 hours per resident per day decades ago and does not reflect in any way the reality of nursing home care in 2016. Today, the typical nursing home resident is older, frailer and more medically complex, requiring far more nursing support.

While 1199's nurses and nursing assistants support *any* improvement to staffing levels in nursing homes, future legislation must go much further to make a real difference in residents' – and caregivers' – lives and health. In practice, based on current data, this bill would affect only six nursing homes in Connecticut. Data from Medicare from January 2016 indicates that the average staffing level in Connecticut is 3.1 hours per resident per day, so this bill will have very little, if any, financial impact on the Medicaid system.

That average staffing level puts Connecticut 33rd among all states and fourth of the five New England state. It falls far below the 4.1 hours per resident per day recommended for more than 15 years by all the major advocacy organizations, including Consumer Voice, which is a national leader on nursing home quality issues. The 4.1-hour minimum standard has been

Testimony of Deborah Chernoff, District 1199
Supporting SB 278 and SB 280

supported thoroughly and repeatedly by academic and medical research as the minimum required for quality care and the best outcomes.

Moreover, many states also have minimum ratios of staff to residents by shift in their Public Health code, a standard that is far easier to monitor and reflects the reality of nursing home care. As a landmark study by the Center for Public Integrity in 2014¹ (cited below) found, self-reported staffing levels used by Medicare to compile data were wildly inaccurate, all too often including all paid hours – vacation, sick time, personal time, etc.—in their staffing count, rather than actual hours worked. A system that uses staffing ratios by shift – days, evenings and nights -- more accurately reflects the number of staff actually available to deliver care to nursing residents and we would urge your consideration of ratios in future nursing home legislation.

We also wish to voice our strong support for SB 280, *An Act Concerning the Long Term Care Ombudsman's Notice to Nursing Home Residents*. This bill would ensure that residents and their families get a timely and clear notice of their rights and resources if a nursing home is moving towards closure or substantially reducing beds. Our members and the residents they care for have seen all too often and too vividly what happens when a nursing home files the Initial Letter of Intent with DSS, seeking state approval to close. Although that is just the initial phase of a long process, which sometimes results in the denial of such permission, residents are often panicked into leaving immediately, as these notices are often accompanied by misleading news coverage or misunderstanding of their right to find an alternate placement of their choosing, even if the facility is ultimately approved for closure.

We believe requiring that written notice of the filing of a Letter of Intent be accompanied by an Informational letter from the Ombudsman's Office and the State Department of Aging would mitigate the panic and confusion we have witnessed in the past, with some residents waiting in the lobby with all of their possessions being relocated far from their original home, sometimes not even knowing where they are going. For residents, the closure of a nursing home is an eviction, a disruptive event that can have long term emotional and health consequences. We applaud any and all efforts to reduce the potential for trauma

Testimony of Deborah Chernoff, District 1199
Supporting SB 278 and SB 280

and hasty decision-making and look forward to working with the State Long-Term Care
Ombudsman and the Department of Aging to support residents' rights.

<http://www.publicintegrity.org/2014/11/12/16246/analysis-shows-widespread-discrepancies-staffing-levels-reported-nursing-homes>

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HUMAN SERVICES COMMITTEE

Public Hearing

March 3, 2016

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Written testimony of State Ombudsman, Nancy Shaffer

Good afternoon Senator Moore and Representative Abercrombie, Senator Markley Representative Wood and esteemed members of the Human Services Committee. My name is Nancy Shaffer and I am the Connecticut State Long-Term Care Ombudsman. Per the Older American's Act and CT General Statutes 17a-405-422 inclusive, It is the duty of the State Ombudsman to provide services to protect the health safety, welfare and rights of individuals who reside in skilled nursing facilities, residential care homes and managed residential communities/assisted living facilities. The Ombudsman Program serves approximately 30,000 residents in the state of Connecticut who reside in one of these facilities for either a short or long-term stay. It is our responsibility, as Long-Term Care Ombudsmen to respond to concerns of residents and their families about their care and services and to resolve their complaints at the facility level and to the resident's satisfaction.

SB280

S.B. No. 278 (RAISED) AN ACT CONCERNING NURSING HOME FACILITY MINIMUM STAFFING LEVELS.

The Long-Term Care Ombudsman Program and the residents of Connecticut's skilled nursing facilities appreciate that this Committee has raised a minimum staffing bill once again. This issue has come before the legislature many times over the years. And for good reason: Connecticut remains on record as being one of the worst states in the country for its minimum staffing standards of 1.9 Hours per Resident per Day (HPRPD). The national average is 2.48 HPRPD. At a time when acuity is on the rise in nursing homes and a decades-long stagnant staffing standard is in place, residents are put at risk for numerous bad outcomes, including pressure ulcers, infections, malnutrition, dehydration and injuries from falls. The Office of Fiscal Analysis did a cost analysis a few years ago and when asked to relook at this, did not believe there would likely be minimal difference from the original analysis the year or two before. Per OFA it was determined there would be little to no cost to the state if the Hours per Resident per Day was raised to 2.7 HPRPD in Connecticut. Since OFA's analysis showed that



most homes in Connecticut already staff at 2.3, raising the minimum should not have a fiscal impact on providers either. In 2000, the CT General Assembly commissioned the Office of

Program Review and Investigations to do a nursing home staffing study and made the recommendation to raise staffing level requirements to 2.36 HPRPD in 2001 and to 2.75 HPRPD in 2002. The proposal before you raises the HPRD to 2.3. This is still below the Office of Program Review and Investigations recommendation from sixteen years ago.

Our dear friend, Brian Capshaw, spoke articulately from the perspective of a nursing home resident. His observations continue to resonate. When Brian testified before this committee two years ago he noted that his nursing home was staffing at 2.9, but even at that level he stated that residents were not always allowed the choice of when they got up in the morning or when they would go to bed at night. This alone puts residents at risk for bed sores, a decline in mobility, and potential falls and injuries if they try to get out of bed without assistance. There is also the danger of social isolation and depression. Just this week, I had the opportunity to observe a group of residents in a reminiscence activity. One gentleman went a bit off topic and stated to his fellow residents "there are not enough staff to do the job, some people aren't getting out of bed until 11 am." And he said, "the upper echelon" needs to do something about this. WE need to do something about this for the sake of those who depend on us to ensure their quality of care.

Attached to this proposal is language related to increasing the minimum number of qualified social workers in nursing homes. The Ombudsman Program truly supports this concept. We know that individuals are living longer, that the acuity is greater in nursing homes than ever before and that residents and families are under more stress. All of this speaks to the need for more social services support. While the improved staffing measures likely do not carry a fiscal note for the majority of Connecticut nursing homes, I am fearful that the nursing home providers will see improved social worker staffing as a greater cost to their doing business. In many ways, however it would likely be a "win" for nursing homes as these resources are well-spent on providing a better psychosocial environment for individuals and for the home as a whole.

S.B. No. 280 (RAISED) AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS.

There is a statutorily mandated process when a nursing home applies to the Department of Social Services to request closure. Per Connecticut General Statute 17b-352, a nursing home must first submit to DSS a "Letter of Intent" (LoI) which initiates the request for "Certificate of Need" application forms and instructions from the department regarding its intent to transfer,

add, expand, increase, terminate or decrease its business. When the Lol is sent to DSS it is also sent to the families and residents of the nursing home and to the Office of the Long-Term Care Ombudsman. The Lol presents the nursing home's perspective about its decline in business, the various interventions to improve its business model, attract more residents, and essentially to improve its profit margin but it has concluded it is no longer a viable business and must close. A typical Letter of Intent includes language similar to that used by a recent nursing home:

"The decision to close...comes after years of painstaking effort to revitalize the center's declining census...While the CoN (Certificate of Need) must be approved by DSS and may take up to ninety days, placement coordinators will be on staff to assist you and your loved ones with your options regarding alternate placement options. While you are not required to move at this time, our placement coordinators will be available to ensure a seamless transition should you choose to voluntarily transfer."

As you can imagine if you are a resident or family member who receives this letter you are devastated by the news and the accompanying uncertainty. The tone of the Letter of Intent certainly makes closure sound like a "done deal". The nursing home has become the resident's home. Other residents and their families as well as the staff who have cared for them have become extensions of their own families. Residents have built relationships which they depend upon. As one of my colleagues stated, what happens at this point is panic sets in. In the home cited above, by the time of the CoN hearing, a month after the Letter of Intent was delivered to residents and families, approximately 60% of the residents had discharged (and most to other skilled nursing facilities). This is simply wrong. In that short time period those residents and their families had minimal opportunity to consider their options and make informed choices about where they might move IF the home closed. While 60% decline in resident census in such a short time period is not the norm, it is very safe to say that discharges always begin immediately once that Letter of Intent is received. By the time of the CoN hearing, often the nursing home business is no longer viable due in fact to its depleted census.

S.B. No. 280 provides that a letter from the Office of the State Ombudsman and the State Department on Aging is included in the same envelope as the Lol. Receiving these two documents at the same time is important. Residents and families will receive a balanced message: the business is initiating a process to close the nursing home and the residents have rights and protections and need not make quick decisions about their living options. The state has a robust Money Follows the Person Program which can assess the resident's needs and determine if a plan of care and services in the community is an option for the resident. At a time when the State has committed to rebalancing where people receive their long-term services and supports it makes sense to give them the information and time to make their

choices. Some certainly may choose another nursing home while others may appreciate this as an opportunity to return to their communities. It is our duty to give them adequate time and information to protect that right to an informed decision.

Thank you for your attention to these important issues. I am happy to answer your questions.

Respectfully,

A handwritten signature in cursive script, appearing to read "Nancy Shaffer".

Nancy Shaffer, State Ombudsman



**Connecticut's Legislative
Commission on Aging**
A Nonpartisan Public Policy and Research Office of the Connecticut General Assembly

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Human Services Committee

March 3, 2016

Testimony

Deb Migneault

Senior Policy Analyst, Connecticut's Legislative Commission on Aging

Julia Evans Starr
Executive Director

Senator Moore, Representative Abercrombie and esteemed members of the Human Services Committee, my name is Deb Migneault and I am the Senior Policy Analyst for Connecticut's Legislative Commission on Aging. I thank you for this opportunity to comment on SB 278 and SB 280 today.

Deb Migneault
Senior Policy Analyst

As you know, Connecticut's Legislative Commission on Aging is the non-partisan, public policy office of the General Assembly devoted to preparing Connecticut for a significantly changed demographic and enhancing the lives of the present and future generations of older adults.

Alyssa Norwood
Project Manager

Christianne Kovel
Special Projects
Coordinator

SB 278: An Act Concerning Nursing Facility Minimum Staffing Levels
~ Connecticut's Legislative Commission on Aging supports

*With 21 volunteer
board members from
across the state*

Connecticut has the second lowest nursing facility staffing level requirements in the country. Our state mandates 1.9 hours of nursing staff care per resident per day. This requirement was established decades ago. The composition of people in nursing homes has vastly changed since then; nursing home residents have more complex medical needs, with multiple co-morbidities and are much older. This status of a more vulnerable nursing home population will continue as a result of people living longer, hospitals discharging patients more quickly and due to a variety of rebalancing efforts.

It is widely recommended that the staffing levels equal 4.1 hours of nursing staff care per resident. This bill would raise Connecticut from its present 1.9 ratio minimum to 2.3. The Centers for Medicare and Medicaid Services (CMS) website named nursing home compare maintain a survey which demonstrates that Connecticut nursing homes exceed 2.7 hours of care. (Other researchers question the validity of the methodology used and went so far to suggest that these reports across the country were grossly inaccurate and high). The Affordable Care Act included a provision to require nursing homes to provide data based on actual payroll though these efforts have been stalled.



Research findings are overwhelming and consistent that staffing levels is directly tied to quality of care. Understaffing harms nursing home residents and can lead to pressure ulcers, infections, malnutrition, dehydration and serious falls.

Additionally, the Legislative Commission on Aging supports the provisions of the bill that reduces the social worker ratios in nursing facilities to 80 beds to 1 social worker in 2016 and 60 beds to 1 social worker in 2020. Currently, the ratio is set at 120 beds for 1 social worker.

Social workers provide a range of supports to nursing facility residents that impact quality of care. Social workers are often helping residents and families adjust to nursing facility placement, developing care plans that reflect the social and emotional needs of the resident, protecting residents rights and dealing with resident conflicts, and assessing cognitive and mental functioning. Additionally, social workers are often very involved in discharge planning and arranging for supports to be provided at home.

The current ratio standards are not adequate considering the vast amount of services a social worker provides in a nursing facility setting. Current ratios only allow for 9 minutes of time each week with a resident. Additionally, as outlined earlier in my testimony, the complexity of the needs of a nursing facility resident is much different than they were 30 years ago when these standards were originally established.

SB 280: An Act Concerning the Long-Term Care Ombudsman's Notice to Nursing Home Residents ~ CT's Legislative Commission on Aging Supports

Currently, nursing facilities are required to provide written notice to residents, family members, and conservators when the nursing facility has filed a certificate of need application to the Department of Social Services. The Certificate of Need application must be filed whenever a facility is intending to change ownership or request a significant bed reduction or a change in service. In other words, a nursing facility must provide notice to residents when they intend to close the facility or the facility is intending to undergo a change of ownership. This bill requires nursing facilities to include with their written notice to residents information from the State Long-Term Care Ombudsman about the services available to them from LTC Ombudsman and rights of the resident.

The LTC Ombudsman plays a critically important role to nursing facility residents in the event of a nursing facility closure or change in ownership. They act as advocate for the resident and make sure the rights of the resident are upheld during a very difficult transition time for the facility, the resident and their families. Unfortunately, residents' and family members may not be aware of the services and supports available to them from the LTC Ombudsman. We fully support this notification requirement that we hope will create enhanced access to the important services of the LTC Ombudsman.



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Testimony to the Human Services Committee

Presented by Mag Morelli, President of LeadingAge Connecticut

March 3, 2016

Regarding

- SB 278, An Act Concerning Nursing Home Facility Minimum Staffing Levels**
- SB 280, An Act Concerning the Long-term Care Ombudsman's Notice to Nursing Home Residents**
- HB 5437, An Act Concerning Nonemergency Medical Transportation for Medicaid Recipients**
- HB 5257, An Act Concerning Medicaid Provider Audits**

Good afternoon Senator Moore, Representative Abercrombie, and members of the Human Services Committee. My name is Mag Morelli and I am the President of LeadingAge Connecticut, a membership association of 130 not-for-profit organizations representing the entire field of aging services and senior housing. On behalf of LeadingAge Connecticut, I would like to testify on several bills before you today that are related to long term services and supports and aging services.

SB 278, An Act Concerning Nursing Home Facility Minimum Staffing Levels

Section 1:

LeadingAge Connecticut can support this section of the bill which would raise the minimum nursing home staffing requirements for licensed and certified nursing staff. While we support this bill, we do want to be sure that the Committee understands that both the Public Health Code and federal oversight regulations currently require nursing homes to staff at a level that meets the needs of residents. These same regulations authorize the Department of Public Health to assess penalties in certain cases when facilities fall short of staffing requirements and fail to employ sufficient staff to meet resident needs.

The bill also updates the manner in which we will measure the staffing level for nursing by proposing a daily minimum ratio which is the same calculation currently used by the Centers for Medicare and Medicaid Services (CMS) on the Nursing Home Compare website and which recognizes the necessity to staff to the needs of the residents over a full day of care.

We appreciate the request to defer to the Department of Public Health (DPH) to amend the regulations to implement the provisions of this section. Doing so will provide an opportunity to thoughtfully establish the state requirements to be in coordination and compliance with the federal CMS requirements, including the forthcoming electronic submission of staffing data through the Payroll-Based Journal (PBJ) that will be required of nursing homes later this year.

Finally, in that the term "direct care" is used elsewhere in the statutes, we would ask that DPH be requested to define the term specifically for the purpose of this statute.

We are pleased to lend our support to this section of the bill.

Section 2:

LeadingAge Connecticut cannot support this section of the bill which would mandate an increase in minimum staffing ratios and employment requirements for social workers in nursing homes. We ask that the Committee not move forward with this section of the bill.

The Public Health Code currently requires that social work service staff be employed in each facility sufficient to meet the needs of the patients. We are not aware of any concern from the regulatory authority that this current standard is not being met.

To forecast out to the year 2020 and implement additional increases in social work employment mandates is very concerning as we cannot count on the resources – either private or public – to pay for that mandate. If there was a demonstrated need or a commitment to fund this mandate, we may look upon it in a different light. But we cannot support the proposal at this time as written.

LeadingAge Connecticut nursing home members do staff to meet the needs of their residents and may also exceed that standard in different areas of the nursing home depending on the level of care provided. Raising the minimum ratios may require such nursing homes to reallocate social work staff in order to meet the new minimum ratio requirement throughout the building. In other homes, the future mandate for additional full-time employees will create a financial burden without a real demonstrated need to do so.

It is a very tumultuous time for nursing homes. They are adapting to a rapidly changing health care field while the state is facing a financial crisis. The public financing of long term resident care has been stagnant and the future of such financing is at risk.

A mandate to increase the number of social workers employed by nursing homes this year and then again in 2020 with the requirement that they be employed with full time status is prioritizing what employees will be hired or retained by nursing homes over the next five years.

Without additional resources, a mandate to increase the number and status of any one type of employee will most likely require the reallocation of resources and the reduction in expense or employment in other areas.

In such a changing and uncertain environment, any additional mandate that is proposed without additional funding must be thoroughly vetted and absolutely necessary. We do not feel that this is the case with the bill before you today.

SB 280, An Act Concerning the Long-term Care Ombudsman's Notice to Nursing Home Residents

LeadingAge Connecticut supports this effort to provide additional information to residents and their families when they are notified of the intent to close a nursing home. We agree that the letter should be specific to the resident's rights and the services available as they relate to the letter of intent and it is sensible to have the letter issued jointly from the Office of Long-Term Care Ombudsman and the State Department on Aging.

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SB280

To Whom it may concern;

As a social worker who has specialized in working with older adults and their families for over 20 years I feel it is imperative for ratios of social workers to nursing home residents be drastically reduced. The case load and responsibility continues to evolve and become more cumbersome yet the ratio has not adjusted resulting in decline in support social workers can offer the resident. Social workers are now faced with ascend tracking, MDS completion, insurance updates, progress writing quarterly on every resident, room change, admission adjustment and behavioral challenge. It is critical that Social workers are available for case management, discharge planning, behavioral support, assessment and family intervention. The current case load is unreasonable and ineffective to provide the necessary state regulations. It is in the best interest of the resident, family and state to decrease the case load. A reasonable ration would be 1:60 for long term residents and 1:20 for short term rehabilitation.

Thank you for considering this legislative change to support the social work profession.

Sincerely, 
Carrie Effinger, LMSW



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Written Testimony

Human Services Committee

March 3, 2016

Elizabeth B. Ritter, State Department on Aging

Senator Moore, Representative Abercrombie, Senator Markley, Representative Wood and distinguished members of the Human Services Committee. My name is Betsy Ritter. I am the Commissioner of the State Department on Aging. I am here today to provide testimony in support of SB 280: AN ACT CONCERNING THE LONG-TERM CARE OMBUDSMAN'S NOTICE TO NURSING HOME RESIDENTS, and to thank the committee for raising this bill on behalf of the agency.

When a nursing home facility intends to close, current law requires that a copy of the *Letter of Intent (LOI)* to close, which is the facility's official notice to the State, be sent to the residents of the facility and their families. The proposed amendment to this existing statute will require that notification to residents and families be accompanied by a letter from the Office of the State Long Term Care Ombudsman which clearly outlines the residents' rights to carefully consider and determine their relocation plans.

The LOI is initially sent to the Department of Social Services and sets in motion the processing of the facility's request to close. The next step is a public hearing at which DSS hears testimony from interested parties regarding a potential closure. Often times, many residents have already been discharged to other nursing homes by the time this public hearing is held. The receipt of an LOI can be very disconcerting to the affected resident and their family, and it may be difficult for them to understand what options are available to them. Therefore, it is important to balance the message from the facility's perspective with the assurance that the residents have certain rights and protections.

The mandate of the Long-Term Care Ombudsman Program is to ensure that residents' welfare and rights are protected. The addition of this joint letter from the State Department on Aging and the Office of the State Ombudsman will present a more balanced picture to the residents and their families of what is happening, what their legal rights and protections are, and that they can take time and not be rushed into any decisions. This letter also has the potential to enhance opportunities for the Money Follows the Person program to engage residents and



families in discussing options for community living, thus forwarding the Governor's initiatives to rebalance the State's long-term services and supports systems.

The State of Connecticut is likely to experience more nursing home closures in the future. Enacting this legislation now will provide assurances to residents at a difficult time and will ensure they have greater opportunity to review all their options should the DSS Commissioner decide to grant the home's request to close.

I thank you for hearing this bill and I am happy to answer any questions you may have.

