

DISABILITY RIGHTS NEW JERSEY

ADVANCING JUSTICE. ADVOCATING INCLUSION.

GWEN ORLOWSKI, EXECUTIVE DIRECTOR

Testimony before the Senate Health, Human Services, and
Senior Citizens Committee
Bill S2769
Monday, February 13, 2023, at 1:00 pm

Thank you, Chairman Vitale and members of the committee for providing me the opportunity to discuss S2769 which revises reporting requirements to require nursing home owners and operators as well as applicants for transfer of ownership to provide an organizational chart and consolidated financial statement.

Disability Rights NJ is the federally funded, designated protection and advocacy system for people with disabilities in the State of New Jersey. Under our federal enabling statutes, we provide legal representation, advocacy, education and training, and information and referral to people with disabilities, their families, and the professionals who serve them. Created in 1975 by Congress in response to a series of investigative reports that exposed abuse and neglect at a New York state institution for individuals with developmental disabilities, a core function of protection and advocacy agencies including Disability Rights NJ is to have a regular, ongoing presence in facilities where individuals with disabilities receive services, and to investigate incidents of abuse and neglect. Our jurisdiction includes nursing homes as many residents of long-term care facilities have disabilities such as intellectual and developmental disabilities, serious mental illness, and traumatic brain injury. During 2022, we were regularly monitoring Woodland Behavioral Health Center while it was being closed to ensure that the residents were receiving adequate care and that their rights were protected as they were being transferred to

NEW JERSEY'S DESIGNATED PROTECTION AND ADVOCACY AGENCY.

other facilities. We are offering testimony today because our unique role as the protection and advocacy system provides us with knowledge as to how financial transparency will impact the care that residents receive in nursing homes.

The Covid-19 pandemic shone a bright light on the systemic problems that have been plaguing nursing homes for years. Issues related to inadequate staffing, infrastructure and infectious disease control resulted in the deaths of a large number of residents. The New Jersey legislature has acted on many recommendations to improve the care of residents in nursing homes, but many problems remain. One area that raises our concern is ensuring that the money being spent for the residents in these facilities actually goes to patient care.

It is increasingly common for nursing homes operators to structure themselves as networks of interlocking companies. They typically establish a separate company to own each facility in their chain, and sometimes create additional companies to hold the real estate. Other side businesses supply shared services such as physical therapy, payroll processing or liability insurance. In many cases, these various companies are owned by the same set of people – or by their family members and business partners – and outwardly function as a single organization. We believe that nursing homes operators use these “related company” transactions to divert money away from patient care and disguise the true profitability of their businesses. As a result, the individual nursing home may appear to be losing money, and therefore, limits the money spent on patient care; yet a separate unidentified related company is making a huge profit at the expense of the individual residents.

Public monies through Medicaid and Medicare heavily fund the nursing homes in New Jersey. The nursing home industry regularly complains the current Medicaid reimbursements

are not sufficient to increase staffing or their pay. However, the nursing home industry does not want to provide true transparency of its financial situation, so it is impossible to know whether the Medicaid reimbursements are adequate and being spent for meaningful patient care.

Nursing home finance experts state that the best way to see where public funds to nursing homes are going is to require consolidated financial statements that provide transparency beyond individual nursing home expenditures. They also state that it is important for the nursing home to provide an organizational chart listing all related parties. When nursing home providers demand more public funding to solve staffing shortages and other issues, the public needs to know how and where funds are being spent, and who is benefiting from them. We believe that this bill requires needed financial transparency of nursing homes so that we can ensure that patients are receiving adequate care.

Although this bill requires transparency, we are concerned that it does not fully ensure that the information is reviewed, analyzed, and synthesized in a manner that the public policy makers and the general public will be able to use. Consolidated financial statements are extremely complex and hard for most individuals to understand. We are concerned that the Department of Health lacks the financial acumen to fully scrutinize and analyze the data, and instead may just post the data on their website. As such, the public and policymakers will still not know whether the public funds are adequate and being properly spent for patient care. It is important that an agency with the ability and financial acumen needed to review and understand the consolidated financial statements, like the New Jersey Office of the State Comptroller, receive this data so that it can analyze the statements and issue reports that can

assist policymakers and the public to fully understand whether nursing homes are adequately funding patient care, and are not misappropriating the monies to enrich the owners.

Again, thank you for the opportunity to comment on this proposed bill, and please contact me at mcicccone@disabilityrightsnj.org or (609) 292-9742 should you have any questions or wish to discuss further.

Sincerely,

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/s/ Mary A. Ciccone

By: Mary A. Ciccone
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