

July 28, 2023

RE: Testimony of Suzanne Scheller in support of Changes to Assisted Living License Law under Minn. Stat. §144G to Remove the Exemption for HUD Settings

TO: Senator Hoffman, Representative Noor, and Committee Members

My name is Suzanne Scheller, and I am the Legal Advisor for Elder Voice Advocates. Thank you for allowing testimony related to addressing a known gap in law that negatively impacts those receiving assisted living services in certain settings. Many stakeholders worked diligently to pass legislation in 2019 to license assisted living facilities. At the time, the intersection of housing regulations associated with HUD settings (such as those operating under Section 202 for older adults and Section 811 for adults living with disabilities) and assisted living license was not able to be tackled, so HUD settings were exempt from needing an assisted living license. Therefore, while we have over 2,000 licensed assisted living facilities in Minnesota, no HUD settings are not required to be licensed as assisted living. Vulnerable adults continue to receive assisted living services in such HUD settings, flying under the radar screen without oversight. Minn. State. §144G.08, subd. 7 defines an “assisted living facility” as providing “sleeping accommodations and assisted living services to one or more adults.” “Assisted living services” are defined 144G.08, subd. 9 as health and related services, including those of a social worker as well as supportive services such as social and recreational services and arranging for transportation.

Residents living in HUD settings that may otherwise meet the definition of an assisted living facility, do not need to be licensed. Neither the Minnesota Department of Health nor the Minnesota Department of Human Services are aware of whether such HUD properties are providing assisted living services given no license application is required; no registration or license exists to notify the public of vulnerable adults being served in the building; no regulation or oversight from state agencies occurs; and no termination of lease or services nor coordinated moves are available to assist residents.

There are approximately 1,000 HUD settings in Minnesota housing. Approximately 485 of those are for those age 62 or older or living with disabilities (Section 202) and another 116 for those with disabilities (Section 811). The number of vulnerable adults living in such settings is not insignificant.

The gap in the law leaving our most vulnerable exposed was brought to light recently in Bemidji, Minnesota when Red Pine Estates, a HUD owned property, was suddenly closed on July 6, 2023, after concerns of structural damage. Many older and vulnerable adults lived in the building yet when they were displaced, the protections and oversight afforded by the assisted living license law were absent, leaving residents to largely fend for themselves. 28 of the 47 residents were receiving county case management services, we know of at least 10 of the residents requiring home care or PCA services that needed to continue after the building closed. Had assisted living license been in place, it is believed that greater coordination could have been facilitated to assist the residents in finding alternative housing and continued services, such as

through the Minnesota Department of Health and the Minnesota Department of Human Services. I believe there is testimony from one of the many volunteers assisting Red Pine Estates tenants to talk about the impact of the immediate removal of vulnerable adults from their home. I will conclude my remarks by stating that Elder Voice Advocates is deeply concerned about the impacts of Minn. Stat. §144G exempting HUD settings from needing to be licensed as assisted living. The Minnesota Elder Justice Center is believed to share those concerns. We believe now is the time to fix the gap.

Thank you,

Suzanne Scheller, Esq.

Legal Advisor, Elder Voice Advocates