

elder voice

ADVOCATES

Elder Voice Advocates enthusiastically supports the passage of SF 997. The injustice of this antiquated Minnesota law must stop now.

Our vision sees a future with 'a society that values elders and vulnerable adults with abuse-free, respectful care.' And our mission is 'championing solutions that prevent abuse, neglect, and exploitation – while promoting the highest standards of care for all vulnerable adults.' I hope that this is a vision and mission that is shared by all.

This bill is a solution that is long overdue and will demonstrate that we are a society that truly values the lives of elders as much as we do all others. Why is an elders' pain, suffering and even death from maltreatment different from that of any other human being? Yet our current law makes it clear, that their lives are not valued.

The epidemic of abuse, neglect and exploitation of elders has escalated over the last couple of decades. The complaints of abuse and neglect skyrocketed from 4,000 cases in 2010 to 22,500 in 2018, the last year we have data. The vulnerability of these citizens is often acute and without this change in law there is no accountability for maltreatment and no incentive to stop harmful practices.

Many of our loved ones have suffered amputated limbs from untreated wounds; sexual assaults from staff; stolen pain medication resulting in excruciating pain; left lying in their urine and feces for days; developed pressure sores from lying for hours without being moved; remained lying on the floor for an entire night after a fall; their bodies laid in their rooms for many days because nobody did the wellness check; and the list goes on.

Many of our families have struggled to get quality and compassionate care in too many long-term care facilities. The harm in many cases is so horrific that the suffering of these loved ones is inhumane. The families often suffer trauma years after the death of their loved ones. Yet the perpetrators are free of any accountability and often continue the maltreatment of many other elder victims.

It is time to stop protecting the wrongdoing of those who grievously harm our elders while the perpetrator continues their maltreatment. Thank you for your support.

March 1, 2023

Senator Ron Latz and Representative Sandra Feist,

I write in support of SF997. The time has come for claims of injury to survive the death of the decedent and allow damages for their pain and suffering to be awarded. The current restrictions affect our elder population the most. They have limited time to bring injury claims and limited life span. They are vulnerable. My mother was neglected in several long-term care facilities, leading to her injury and death. I cannot reconcile that there is NO place under the law to seek accountability for all of the pain, suffering, and injury she incurred as a result of the negligence of the facilities.

My mother was neglected to death first in a memory care unit, where she was **admitted on 10/27/2020**. I witnessed poor hygiene and infection control. **Within 15 days my Mom caught COVID** (It takes 3 days for symptoms to show-I saw her on the 11th & she seemed fine-On the 14th she had chills, dry cough & runny nose and on the 15th a confirmed fever over 100. They were not monitoring her symptoms. She became very sick and had diarrhea causing dehydration. The facility would leave her alone covered in feces from diarrhea she was **not** assisted to the shower and passed out from dehydration. I was my mom's agent, yet the severity of her illness and dehydration were not communicated to me. When she passed out in the shower on **11/19/2020**, she hit her head. She sustained a head injury from which she would never recover. She had to be taken to the head injury unit at HCMC the EMT explained to me because of the severity of **the head injury** and that was the only hospital that treats that severity. Yet, HCMC released her back to memory care that night because of lack of beds. When I finally got an aide at memory care to answer her phone and hand it to her, she was speaking gibberish, which she had not done before. The hospital wrote her off because she was 82 and had dementia.

On **11/24/20**, I was finally called by the memory care stating they needed my okay to send my Mom to the hospital. For the first time, I was told that she had been in bed sleeping for days. Of course, I wanted her sent to the hospital; she was admitted for **severe COVID** and I was still not getting full honest reports about the severity of her illness from the hospital. I insisted they keep her at the hospital. They kept trying to discharge her. I kept refusing to sign-off on the discharge given how sick she was. One of the doctors was yelling at me saying "Her vitals are fine; she needs to go. We need the bed."

On **12/4/20** she went onto a TCU to get stronger we were told. Yet I find out she is too weak to feed herself and to sit up in bed on her own & that they were bringing the food & water to her mouth. The **ONLY** reason she didn't die there was because we talked them into letting my sister in to coax her into eating & drinking more. We figured she was just really sad from not getting to see us and that would take care of that issue. Turned out, she wasn't eating or drinking at all due to weakness and we were being lied to. When I saw her (**On a video call-12/11/20**), she looked so severely dehydrated, underweight and sick, having suffered greatly from the head injury and dehydration.

On **12/14/20** at the TCU, my sister was brought to my mom's room. They then wheeled my mom into the room in a wheelchair. She was unconscious and freezing cold (in a short-sleeved shirt that was not hers). When they finally got a nurse in to take her oxygen level it was at 60. I was her POA & Guardian, so I was called to be brought up to speed and asked what I wanted them to do. Really? I said to call 911. They did and the ambulance came. It took 3 days to slowly bring her into consciousness because she was suffering from **hypernatremia**, which is too much sodium in the blood/brain caused by severe dehydration. Severe dehydration can lead to brain damage and even death in some cases. She also had a **pressure sore** so severe that only the special care wound team could treat & sepsis (I was not told of the **sepsis**, I found out from reading it in the medical files I requested after she passed)

Needless to say, she never left the hospital. They waited until they decided she only had death left as a choice, then we got to see her before I moved her to private hospice-**1/5/21** where they kept her sedated on medication. Under the tender care of my sister and myself, my mother looked better upon her death days later than she did when first seeing her than after the negligence of the facility.

I really thought more of our state. We are the only state to not allow these claims to survive. Our government decides daily to put money ahead of people's lives. I had consulted an attorney, whose opinion it was that Minnesota Statutes 573.02 would make it impossible or nearly impossible to prevail. Because MN would rather protect big business instead of our loved ones, I now have to try to live my life knowing my mother was basically tortured and I wasn't able to protect her, nor am I able to get justice for her after her death. The injustice and pain she suffered from at the hands of care providers was unbearable. There is no justice for my mother under the current law. Oftentimes the pain and suffering is the most significant damage to our elder population, yet that is not recoverable. There is no incentive to avoid or to resolve claims of injury when the claims go away upon death. I keep thinking of my mother. She could not survive her injuries, but at the very least her claims should.

Thank you for your time on this matter.

Sincerely,
Cindy Laube-CSM, CPPM, ITIL V3, MnHIT, A+
Strengths: Harmony, Responsibility, Consistency, Relator, Discipline

3121 W 69th St.
#425
Edina, MN. 55435

February 28, 2023

Dear Senator Ron Latz and Representative Sandra Feist -

I am writing in support of the proposed bill at the Minnesota Legislature (SF997/HF1019) allowing claims of injury and death to survive the death of the decedent.

My support is based on the tragedy of my family's experience and the belief that no family should have to repeat this experience.

In June 2014, my mother, at the age of 79, was the victim of a witnessed sexual assault at the facility where she lived. The assault occurred at the hands of another resident who was not removed from the facility for another 6 days - after our family issued an order for protection. In the following days, weeks and months after the assault, our family engaged in multiple legal actions in an attempt to provide safety for my mother, and to bring justice on her behalf. Initially we were met with roadblocks and lack of support which were explained away due to my mother's age, her cognitive status, and the details of the assault. We finally connected with attorneys experienced with elder abuse who put into action claims on behalf of my mother who continued to suffer emotionally from the sexual assault. The actions of our attorney to the responsible parties were met with delayed response, or no response, over months and months until my mother's death in May 2016. Because this case was never brought to closure in the courts of law during the life of my mother, the case essentially died with her. She lived the last two years of her life suffering with the memory of the sexual assault (which she consistently recalled with specific detail) and the fear that it could happen again. When we tucked her in at night, she would ask us if her windows were locked.

The negligence of the facility was never acknowledged. No one was held responsible. No one was held accountable. No authentic apology was ever given to my mother or my family. My mother was not given the dignity of care deserving of victims of sexual assault. With her death, her pain and suffering was immediately forgotten.

Minnesota is the only state to not have claims survive the death of the individual. I am asking you to vote to not forget the pain and suffering of victims and their families. I am asking you to vote to hold responsible parties accountable for the pain and suffering of victims and their families. I am asking you please, to vote in support of this bill so that there is no incentive to drag out claims, hoping that the death of the victim closes a case rather than the justice of the courts.

Sincerely,

Jackie

Jacalyn Hennessy
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651-380-0196

To: Senator Ron Latz
To: Representative Sandra Feist

Fr: Anna Shelander, on behalf of deceased Dr. David E. Crandall (DOD: 9-23-2019)

Re: written testimony in support of legislation SF997/HF1019

Today's Date: 2-28-2023

Thank you for allowing my testimony in support of amending Minnesota Statutes 2022, sections 573.01; 573.02, subdivisions 1, 2, 1.3. The modification of which will allow for the survival of certain causes of action following the death of a person in the State of Minnesota.

This modification is of particular interest to me as the daughter of deceased Minnesota Memory Care Resident Dr. David E. Crandall - whose untimely death was a direct result of neglect and abuse at the Memory Care facility where he resided. But because statutes 573.01; 573.02, subdivisions 1, 2, 1.3 do not currently allow for the survivability of certain applicable causes of action following my father's wrongful death - I had absolutely no way to resolve the wrongs that had been done to him.

This testimony is factual and based on real events that occurred in late 2019.

My father, Dr. David E. Crandall, was 85 years old when he died - homeless - as a result of being evicted from his Memory Care facility in Mahtomedi Minnesota.

This was actually Dr. Crandall's second Memory Care placement. The first, in Lake Elmo, had been depriving him of food - and threatened to have my family arrested if we tried to feed him. After finding dad unresponsive on his bed and in a state of arrhythmia, I called 911. His diagnosis upon admission to the hospital was "failure to thrive." Upon discharge Dad's social worker strongly advised that I find a new Memory Care facility rather than return him to the one in Lake Elmo.

Heading her advice, I discharged Dad to a Memory Care facility in Mahtomedi. The head of nursing interviewed dad herself and assured me that her facility could manage all dad's "cares" - with lots of room to spare.

And so, dad made the stressful move to a new place. Initially guarded, it appeared we'd made the right decision as Dad continued to improve at this new facility. He gained over 30 lbs. in a matter of weeks. And his dementia was responding so well to the medications prescribed him in the hospital that the Blue Stone medical doctor overseeing Dad's care at the Mahtomedi facility told me he was referring Dad to Mayo so the neurology team there could better understand Dad's fascinating antibiotic-responsive dementia.

Dad was very excited at the prospect of returning to Mayo Clinic to hopefully find some answers. He told me it was a long way, but if I drove - he was up to it.

But within days of that conversation with the Bluestone doctor, I received a call from the Mahtomedi Memory Care facility telling me that Dad had been rushed to Lakeview Hospital in Stillwater. When I called the ER to inquire why Dad was in Emergency care, I was told that there was nothing wrong with



him. The ER staff said that Dad had apparently been “combative” at the facility – which no one was seeing. When the ER staff tried to send Dad back to the Mahtomedi facility, the nursing staff said that Dr. Crandall was no longer a resident at their facility. That they would not accept him back.

At that very moment, my father, a healthcare professional who had provided care and support to his patients for 60 years, became a homeless person in the state of Minnesota.

The ER progress notes stated that Dr. Crandall was not a candidate for hospitalization. But due to the fact that, as a vulnerable adult, he had no safe discharge plan, they were forced to hospitalize him.

This forced-decision moved a private pay concern into a government pay situation, ultimately costing the Medicare system over \$40,000 – unnecessarily as he was not sick, did not need ambulances, hospital stays, a subsequent TCU stay and finally hospice at the only place that would take him in – which was my own home.


One day, my dad was optimistically looking forward to getting answers from Mayo. Less than 50 days later my dad was dead. Not due to his disease, but through errors and mistakes made by people that our laws currently do not hold accountable: By “dumping” my father at an ER, eviction laws were broken. By denying dad access to safe housing, the laws protecting him from Criminal Abuse & Criminal Neglect were broken. And when the nurse who called 911 to take my dad to the ER doctored his medical records, laws preventing fraud and forgery were broken.


My father was a vulnerable adult who, after his death could not receive any restitution for the wrongs done to him. And as the laws in Minnesota currently stand, others that face similar neglect and abuse and wrongdoing – are also being failed by our current legal system.

I think it’s important to add that later, after I had buried my dad, I visited the EMT who had transported dad to the ER that fated day. As we talked about my dad and what a sweet man he was (he actually thanked the paramedic for his help), the paramedic told me that he wanted to go on record as saying this particular facility had been “Dumping” elderly patients for quite some time and that he wanted someone to do something about it.

So, my hope in writing this testimony is that perhaps together we can do something about what’s happening to our vulnerable adults here in Minnesota. A group who, along with their families, do not have the legal support to right the wrongs done to them. I hope my own personal story provides the type of backstory that will result in the decision to modify Minnesota Statutes 573.01; 573.02, subdivisions 1, 2. 1.3 so that other decedents who have experienced pain and suffering at the hands of those charged to care for them will have more rights than what my father had.

Sincerely,


Anna Shelander
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Stillwater, MN 55082
651-334-8258

2/28/2023




Dear Senator Ron Latz and Representative Sandra Feist;

I am writing to support a bill that is being proposed at the Minnesota Legislature (SF997/HF1019) allowing claims of injury and death to survive the death of the decedent.

My mother was in a long term care facility and was put on hospice care in January 2023. We were told that she would probably die of an eventual infection, although she did not have an infection at this point. She was receiving Palliative care mainly for intense neuropathic pain, and generally her pain was well managed, though her quality of life was declining. After being put on hospice, all of her pain meds were completely withdrawn, and although they told me they were replacing them, they gave her nothing for 8 full days. Finally when a new pain regimen was begun, the doses were extremely small and only gave a nominal amount of pain relief. Thus she was deprived of her normal effective pain medications, for several weeks and especially in her traumatic last week before her death. While this was happening, she was mis-diagnosed/ mis-prescribed an anti-psychotic that was administered several times a day. I am sure that this drug-Haldol, resulted in her complete loss of ability to swallow, speak, move, or communicate her need for pain medication as she became totally paralyzed. This antipsychotic is known to cause death in the elderly, and I believe it caused her death prematurely through a reaction that affects the neurological system.

My mother did not have any immediate terminal diagnoses that would dramatically shorten her life. We had decided that when she got her next infection, (most likely a UTI) we would keep her comfortable but not treat it with antibiotics, thus she would have a natural, painless, comfortable death. Donna was an incredibly loving and kind person, with a sharp intellect and wit. She was not only deeply loved by her family, but her caregivers adored her, because she was extremely present for them, and loved to know about their lives and experiences. Most expressed complete shock to me at her "rapid decline", becoming paralyzed, and unable to communicate. They seemed nearly as heartbroken as I am over losing her so quickly, and most importantly, that she suffered so intensely in her final weeks and month of life. One of the negative side effects of Haldol include a burning sensation in your limbs, it is described by those who survive the reaction, as if you were being burned alive! I believe my mother, from her obvious physical body language; her moaning when touched, her attempts to speak, were cries for help, but the nurse on duty denied my pleas for additional **prescribed** pain meds. In fact she **denied that my mother was even in pain!** She refused to act to ease my mother's suffering, and was the de facto gatekeeper, and sole decision maker as whether (she thought) my mother was in pain and, how much **prescribed** pain and anxiety medication my mother received.

I do want to honor my mother by acting to prevent this horrific experience from happening to anyone else! I now have come to realize in the state of Minnesota, no one has any claim to any type of compensation due to extreme pain and suffering of elder loved ones. Based on current law, there is no incentive for any care facility to provide quality treatment, or to resolve any claim. And they know it. I felt I was patronized when I requested a copy of her records to substantiate for my own information that she was misdiagnosed, mistreated, neglected and deprived of proper and needed pain medications.

Please support this legislation so that all care facilities are held accountable and have an incentive to work with families and loved ones to give proper and adequate care to the elderly. In my understanding, Minnesota is the only state to not have claims survive the death of an

individual. This is shameful, and I hope that you will join me in making sure that no one ever needs to experience the very callous and painful suffering that my mother endured.

Sincerely,
Mary Jo Deters, 3/1/23

March 2, 2023

Thank you Senator Ron Latz, Representative Sandra Feist and Committee Members for listening to my testimony today. My name is Kay Bromelkamp.

I urge you to support SF997, critical legislation for our elder population. I am a founding member of Elder Voice Advocates and like my fellow members, we share experiences of abuse and neglect, pain and suffering, and injury and death of our loved ones in long-term care with no recourse under the law for harm when their claims die with them. Under the current law at Minnesota Statutes 573.01 and .02, justice for mothers and fathers who are injured or die due to negligence, is unattainable. The law operates as a disincentive for quality care.

Pre-pandemic, my mother resided in York Gardens of Edina assisted living for care related to her dementia and experienced ongoing neglect and abuse leading to injury and death. The physical abuse, emotional abuse, failure to provide basic food and water, and lack of assistance leading to multiple infections took its toll on her. She could not overcome the assault on her body. Prior to her death she told us: "my arms hurt, they are mean to me, I can't remember how I got my bruises or how I fell, I am hungry and wasn't fed; and there is a man that sleeps in my chair at the end of my bed." To this day we are haunted as we attributed these comments to her dementia, but we know them to be true after witnessing them on a camera and reviewing records.

When we brought our concerns to the facility we were not believed, our concerns were minimized and we were repeatedly told that "the care was checked off on her chart so therefore it was done."

In addition to our Mom's claims, **we had our own observations.** Unexplained bruises. Unshowered at times. Unchanged depends. Safety sensors unplugged. Finding our mom alone in her room at dinner time while all other residents were eating. Many mornings, still in bed, no cares given. Within one three-day span of time, from camera record, we observed her dentures and face not cleaned, no showers, no escort to meals which often meant no meal. We discovered the morning aide, would lock the door then stay and watch TV and/or sleep and not provide cares/meal to our mother (that was the man my mom said slept at the end of her bed). No medications given. Skipping safety checks at night. Being roughed up as the aide dresses her, with the aide stating yes she is being rough with her as my mom is "so frustrating" and repeatedly hits our Mom's leg. Yelled at and called a "grown ass adult" three times and stating she was acting like a child.

Our family would come most days - to help protect our mother and care for her. Every time we talked to the care staff and administration about our concerns, our mother was retaliated against and her cares got worse. On **three** different occasions, the facility disregarded our mother, providing no cares, for 16, 18 and 19 hours each. She lay in her own soil with no food , water, or Depends changes.

We reported the neglect and abuse of our mother to the Minnesota Department of Health. They performed an investigation and substantiated maltreatment of our mother. However, the substantiation came too late to help our mother since we were not notified of its completion until five months after her death. While we waited for the state to investigate our mother suffered retaliation from the staff, the maltreatment continued and she died. We later learned during the investigation initiated by submission of our own report to MAARC the facility had previously submitted their own report that falsely reported the severity of the abuse my mother endured. No fines were imposed by MDH as a result of the negligence, as the resident is deceased.

Even a small measure of accountability the administrative processes is extremely hard to achieve. Criminal claims are out of the control of families and are extremely rare against care providers even with egregious abuse and neglect. Families are left with a civil process only to find out the claims of horrific pain and suffering of their loved ones due to negligence leading to injury and death, died with them. The facility makes it really difficult for families to get any resolution while living and even more so after death. The facilities are not held accountable. We contemplated a legal claim of injury and death after our mother's death and were devastated to learn that we could not bring claims on her behalf. This needs to change.

We are the only state to not allow claims to survive. The time has come to change the law. Our growing elder population needs this change in law. They are significantly and disproportionally disadvantaged by the current lack of survivability from the rest of our population, given their advanced age, vulnerabilities, limited life span, and likelihood of death after injury. There currently is no justice for their harm, for their pain, for their suffering.

We wish we could have just been daughters to our mother in her last days. We are trying not to look back but rather look forward by focusing on care, dignity and protecting the rights of our most vulnerable.

When we made the decision to move our mother to assisted living our two guiding principles were that we kept her safe and she felt our constant love. ... She was loved, but she was not safe and we had no recourse under law to account for her harm.

Thank you for this opportunity to share my support for SF997.

Kay Bromelkamp

4705 Fremont Avenue South
Minneapolis, MN 55419

March 2, 2023

RE: SF997/HF1019

Dear Senator Ron Latz and Representative Sandra Feist,

My name is Mary Kriese and I support the Bill SF997/HF1019 allowing claims of injury and death to survive the death of the decedent to promote quality elder care.

My father was admitted to the hospital for blood sepsis and life threatening bone infections in both of his feet/calves as a result of pressure wounds that were not properly treated in a four-star care facility. Because of the painful and severe infections that had deteriorated while a resident at the care facility, he lost both of his legs below the knee. My sister and I had entrusted the care facility to properly care for our dad. However, there was nothing "proper" about the care he received - he was neglected causing excruciating pain and suffering.

My dad pursued his claim, hoping to promote better care of elderly and to prevent others from experiencing what he had gone through at the care facility. While it is a lengthy process, we believed the facility should be held accountable for not properly treating the pressure wounds. Unfortunately, my dad passed away during this time and his claim for damages of pain and suffering did not survive. Based on the current law, there is no incentive to provide treatment and to resolve claims. Instead, the current law promotes limiting treatment and "waiting out" claims until the individuals die. It is both saddening and hard to understand that Minnesota is the **only** state to not have claims survive the death of an individual.

I strongly urge your support of SF997/HF1019; it is critical to improving the care of elders. Please help to prevent others from experiencing horrific pain and suffering due to negligence as my dad did. Thank you for your time and support.

Sincerely,

Mary E. Kriese

Ms. Tonja E. Bivins
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February 28, 2023

Dear Senator Ron Latz and Representative Sandra Feist:

Good day.

I am submitting a written testimony to support a bill proposed at the Minnesota Legislature (SF997/HF1019), allowing claims of injury and death to survive the death of the decedent. My mother, Evangeline Cecilia Bivins (DOB February 26th, 1940 - DOD January 13th, 2021) was effected by not allowing her pain and suffering to survive her death.

Evangeline experienced pain and suffering, but her case could only recover limited damages for injury and death and not damages for pain and suffering because such claims do not survive.

The current law disadvantages our elder population greatly and does not provide incentive to promote quality care at the end of life.

Evangeline died due to negligence sustained in a Hennepin County LTCF (Long-Term Care Facility), resulting in severe pain from pressure injuries. Her claim did not survive, and under current law, her pain and her suffering could not be compensated. Based on the law, there is no incentive to provide treatment and to resolve claims but rather the law operates as the opposite incentive to potentially limit treatment unnecessarily and to wait out claims. Minnesota is the only state in the United States of America to not have claims survive the death of the individual.

As one of Evangeline's three children, I visited with and spoke to my mother on a weekly basis, if not more frequently than that during her time in assisted and long-term care. I attended all of her care conferences and advocated for occupational and physical therapies that could help. I was her Power of Medical Attorney, Medical Advocate and attended all of her doctor appointments, monitored her medication administration record and dosages. It was both of our wishes to have her return home as soon as I could arrange proper accommodation. I give the following account of the events that transpired over four months where Evangeline suffered neglect in care, neglect of her dignity and denial of her significance to those who her life mattered, which ultimately led to her death on January 13th, 2021.

History of Residences/Admissions:

Evangeline had several admission into Long Term Care Facilities, Transitional Care/ SNF, Assisted Living and Hospitals. Here is a list of her final admissions:

1. Evangeline was a resident of a long-term care facility (LTCF) from 10/1/2018 to 11/13/2020.
2. At my instruction, Evangeline was taken to the ED at a local Hennepin County hospital and admitted for care from 11/12/21 to 11/27/20
3. Evangeline was a patient at a second Hennepin County SNF where she was in TCU from 11/27/20 to 12/7/20.
4. I contacted and instructed EMS to have Evangeline removed from the second Hennepin County SNF and taken to the same Hennepin County hospital ED where she was readmitted on 12/7/20 to 12/30/20.
5. Evangeline was admitted to a private hospice on 12/30/20 through 1/13/21, where she passed away.

Bed Sore/Pressure Wound and Bone Infection:

In February 2020, while living in a LTCF, Evangeline started a light exercise program I set up for her. She was working with friends and a personal therapist to improve her strength and transfers. She was able to raise herself out of her wheelchair, lift dumbbells and seated pedal cycle machine.

During the week leading up to the COVID-19 lockout, I was told by the LTCF therapy department that Evangeline would be switched to a hooyer lift and stop using the EZ Stand. I objected because I knew this would further weaken her. They did not honor my request and proceeded with the change. Due to COVID lock out, her private exercise workouts stopped and I couldn't get any access to continue helping my mom and to ensure her needs were getting met. On the dates of October 20th and November 9th, 2020, she stated to me upon returning to the LTCF from doctor appointments, "Do not leave me here." At the time, I was in the process of building ADA compliant accommodations for her and trying to get my house safe for her return.

To take a step back, in July 2020 I was told by the LTCF staff that Evangeline had a moisture wound which they had been treating and got it under control. The LTCF staff chose not to correctly identify it a bed ulcer or pressure wound, Evangeline was kept either seated or in bed 24-hrs a day. They tried to heal the wound and in August asked to put her on an internal catheter. I requested that they use the Purwick external urinary collection system that I purchased to decrease the chances of infection. It took a month for the LTCF administration to approve using this device; she started using it in September.

In November 2020, I was told that the Purwick wasn't working and she needed a foley catheter. This started a conversation about the state of the wound, during which I requested a visual phone conference to see it. The wound was horrific and the outsourced wound doctor diagnosed it as a Stage 4 Decubitus Ulcer with bone

exposure, but no detectible infection from the administered x-ray test. Over the course of that week, my sister and I grew concerned that the LTCF didn't appear to be able to properly care for Evangeline. I went to the LTCF and called for an ambulance on November 19th to take her to a local hospital.

Evangeline was diagnosed with a coccyx bed ulcer and wounds on her feet, severe dehydration, malnutrition, infection and severe cognitive decline. The hospital would not test the wound, despite my numerous requests, and stated that the wound was unstageable. On November 26th I was contacted by the hospital LSW that they were discharging her to a SNF. I objected their decision by filing an appeal with Medicare which was denied. She was admitted to the new SNF from November 27th through December 7th, at which point I intervened, removing her from the SNF after I observed her through an outside window unwashed, uncared for and laying on a regular foam mattress. Discharge orders were for an air mattress. She was then admitted back into the same local Hennepin hospital.

From that point, through December 11th, Evangeline had been making improvements of food intake, talking, awareness, etc. The attending physician had provided me and our family information on tests that would help determine if bone infection. The first preferred method, bone biopsy, Evangeline declined. The second, an MRI, seemed risky given Evangeline's multiple implants and health issues. We were considering the third test, a CT scan, and wanted to discuss this further. I had a call with the next attending physician during the weekend of December 12th to 13th and again on December 14th, during which I informed the physician that if Evangeline approved to take an MRI, with her familiarity with such exams, I would approve as well.

On Monday, December 14th, I was contacted by the hospital LSW (Licensed Social Worker) to discuss her case and to determine our wishes for where she would be discharged. I explained that I would not send Evangeline to another SNF or TCU due to her condition caused by the neglect over the past 8 months of COVID lock-down, and that our wishes were for her to come home. The LSW emailed me a list of 3 options for care, including TCU locations and Private Care agencies.

On Tuesday, December 15th, a new, senior hospital LSW called and informed me that the doctor was planning to discharge Evangeline that day. I was taken aback because I wanted to discuss the bone infection test and had no opportunity to do so. Additionally, I had no information on how to receive and care for her in my home. She asked about my ability to provide 24 hours of care, and to that, I was clear that I couldn't provide private pay for 24-hours of care. I knew there were approximately 7 hours of CNA care available, and was planning on hiring 13 hours of daily care, while I covered the remaining 4 hours. I explained that I purchased a high quality hospital bed, rented an electric lift but had no other required equipment or supplies. I asked that I receive a care plan that outlines what is required for her case in durable equipment and consumable care products. I requested a checklist and the LSW stated she would talk with the bedside nurse to obtain this information. In working in Healthcare Information Systems,

I understand, by Policies & Procedures, a care plan has to be created and the patient and family/caregiver are to receive education on how to execute this plan.

The next call I received from the hospital LSW was at 3:11pm on Tuesday, December 15th, stating that Hennepin County Department of Adult Protection contacted the hospital and said that Evangeline would not be discharged as they were asserting legal guardianship over her to determine if she could be sent to a SNF. This removed me from my advocacy and any say in my mother's care or rights to her as my mother. I was told no additional information could be shared and that I was to wait to hear from Hennepin County within 24 hours. On Friday, December 18th, a Hennepin County Sr. Psychiatric Social Worker contacted me regarding a Civil Commitment and asked questions about my mother's dementia, socialization, and plans for her care. My mother was clearly unable to take care of herself and has been this way for years. I had a team of caregivers ready to receive my mother as soon as she was discharged. However, as I stated above, there had been NO CARE PLAN provided to me in order to know what this entailed. There had never been any prognosis that she could take care of herself, so I was confused as to why a Civil Commitment was in the hands of the court which sought to place her into a 24 hour care SNF,-the very same type of facility that had contributed to her bed ulcers and wounds. The Psychiatric Social Worker pushed the case to the county court.

On December 20th, I was contacted by the third attending physician, the doctor, who informed me that Evangeline was not eating and was not communicating. He stated that the pain she appeared to be in called for strong medication, to which I consented. Evangeline lost all of the gains she made up to Thursday, December 10th. She was not opening her mouth for food, medication or water. I was permitted as an exception to the COVID 44visitor policy restrictions. I later found out that someone removed me from her chart as the designated exception. Having a compassionate caregiver/essential caregiver should have been her right. Her chances of recovery were rated poor due to the the wounds and scant nutrition intake. It was clear that she was not going to survive the infection, so I was perplexed as to why I was not allowed to visit her to possibly provide comfort and some relief.

In an effort to get help from any organization or to find one single person willing to listen and assist:

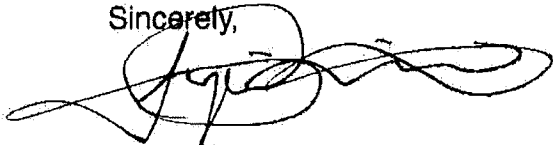
1. I called the MDH and learned that an investigation could be prolonged during the holidays and my mother could have been in the hospital up to 60 days as the investigation process moved on
2. I contacted the Minnesota Elder Justice Department for guidance and they referred me to the Senior Linkage line for assistance with drawing up a care plan and how to get additional assistance.
3. I contacted Evangeline's case manager from Medica, who was non-responsive. Initially she provided high-level estimate of services available to my mom, but then there was no contact. I also felt uncomfortable talking to her because I didn't know if she was part of the decision to call Adult Protective Services.

4. I contacted a legal firm as well to find out what levers exist in executing my mothers Healthcare Directive and also to determine what other remedy may be at our disposal.
5. I contacted news media for further help in obtaining any additional attention to this matter.

In conclusion, on December 29th, 2020, I was ultimately forced to agree to put my mother in a hospice and not remove her as a final action to resolve the unnecessary involvement of the court during the preliminary hearing. This condition was communicated to us by her uninterested court-appointed lawyer. Evangeline was moved to a private hospice on December 30th where she languished and succumbed to the coccyx bone infection seventeen days later on January 13th, 2021. As a result of Hennepin County's interference and over-reach, Evangeline was unable to have her final wishes honored by passing away at home with her family.

In a world where our capacity for compassion and humanity dissipates a little with the frequency of every tragedy, it is time that we stand against and prevent traumatic and chaotic events when possible. We must be moved to action to effect change. I am thankful for Minnesota's political leaders and their willingness and their commitment to fight for the debilitated and the elderly by passing this bill into law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tonja Bivins', with a large, stylized flourish at the end.

Tonja Bivins

Oppose SF997 (Latz)/HF1019 (Feist)

(Relating to changes to MN Statue 573.02)

On behalf of the coalition of organizations below, we would like to express our significant concern with SF997/HF1019 as it relates to continuing a cause of action after death.

Under current Minnesota law governing wrongful death actions, family members may pursue claims for their own financial loss which includes economic loss and their loss of aid, comfort and society, but cannot recover damages for the decedent's pain and suffering. Advocates supporting changes to this law are quick to say that Minnesota is one of just a few states that do not allow this type of a claim to "survive." It is important to note, however, that while a decedent's pain and suffering is compensable in 41 jurisdictions, the vast majority of states have addressed this issue through their respective court systems, rather than their legislature. In most states, protections are built into the system such as high evidentiary standards, limiting the recovery to 'pending claims' or legislatively-imposed caps on damages.

Additionally, since the last time this bill came before the Legislature, we have experienced a once-in-a-lifetime pandemic, during which Minnesota was in the minority of states that did not extend liability protections for our frontline workers, public health employees and health care providers. The impact of this omission when combined with this proposal is extremely troubling.

Minnesota has never rewarded people who have not been directly injured with money for another person's claims. Survivorship proposals will negatively impact every industry in the State by drastically expanding tort claims -- the impacts potentially being far broader than just long-term care as the changes could impact anyone who can be sued for wrongful death or personal injury:

- Municipalities
- Schools
- Hospitals
- Nursing Homes
- Physicians
- EMS Providers
- Transportation companies or companies with fleets
- Manufacturers
- Utilities
- Retail and hospitality
- Contractors
- Those who develop or sell products

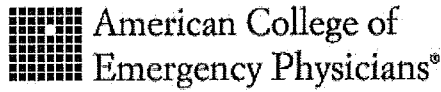
Collectively we represent thousands of businesses and health care providers that would be adversely impacted by changing the survivorship law. Expanding tort claims and giving money to individuals who have not been injured will have a NEGATIVE EFFECT on industries as dollars will go to increased lawyer fees for litigation claims as well as increased insurance premiums rather than improving care or providing services.



Minnesota Hospital Association



MINNESOTA
MEDICAL
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A Minnesota Collaboration for Changes in Older Adult Services

