



To: Chair Hoffman, Vice Chair Abler, and Members of the Senate Human Services Committee

From: Office of the Ombudsman for Long-Term Care, Office of the Ombudsman for Mental Health and Developmental Disabilities, AARP Minnesota, Alzheimer's Association, MN Elder Justice Center, Legal Aid

Subject: **Advocate's Position Regarding SF 1969 (Senator Housley)**

Date: March 25, 2024

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Since last session, there have been numerous formal (e.g., MDH workgroups and sub-workgroups) and informal discussions about the landmark assisted living law passed in 2019. These discussions have involved possible changes to Chapter 144G. We have appreciated the opportunity to participate in the conversations over the last year. We have worked with stakeholders, such as the Long-Term Care Imperative and the Residential Providers Association of MN (RPA-MN), to hear their concerns and offer feedback regarding, in particular, small assisted living providers.

We recognize the need for flexibility and are open to a limited number of changes that allow portability of general orientation-type training (i.e., 144G Basics), and license portability if resident protections are in place and are open to changes in the food codes requirements for residential settings.

**However, we oppose any efforts to weaken consumer rights or protections including those outlined in SF 1969 including the following:**

- **Section 4 –This section deletes important consumer protections and choice around food/meal charges** (144G.41 Subd.1 (13) (C) By deleting this section AL facilities can now require residents to include meals in their contract that they do not want or will not eat. Many residents prefer the option of cooking and making their own meals and it would be cost-prohibitive if forced to pay for meal plans, they don't want.
- **Section 12- This section broadens the scope of the LPN to do comprehensive assessments which is outside of their scope.** The Assisted Living Law and Nurse Practice Act makes clear that a comprehensive assessment must be conducted by an RN. The requirement for a 90-day re-assessment by an RN after the initial assessment after receiving services is critical to evaluate the resident's care

needs and ensure the care plan is meeting the resident's needs. LPNs are allowed to do focused assessments, and they are important to inform the RN, but this should not replace a comprehensive assessment.

- **Section 8- This language limits the abuse prevention plan to only residents receiving services.** We believe all residents in an Assisted Living facility should receive an abuse prevention plan. If a resident not receiving services is uncomfortable with this plan, we believe it could be waived with informed consent.

As we indicated above, we are open to allowing for **training portability in Section 8** if existing statutory requirements regarding any site or client-specific training, including dementia care training, remain as is. Also, we are **open to allowing for single-family home-style ALs with a resident capacity of up to 5 residents to share a Certified Food Protection Manager**, the change to dedicate 1 well of a 2-well sink for handwashing, and allow for textured ceilings that are well-maintained.

However, we are concerned that applying these changes to assisted living facilities with a resident capacity of 6 - 10 residents in **Section 6 1a(b)** broadens these exemptions to facilities that are fundamentally different in nature. We suggest limiting these exemptions to ALs with a capacity of 5 residents. We believe a delineation between resident capacity of 5 and fewer residents and 6-10 residents needs further exploration and definition.

In addition, we are interested in further explanation as to why the changes are needed in **Sections 3, 9, and 10** – which relate to changes to the physical plant/design standards, and would ask that the Minnesota Department of Health weigh in.

Finally, we are ok **with Section 6 1a (b) and Section 7** as they are retained but are being moved to a new part of the statute.

In closing, we appreciate your attention to these critical issues and are open to targeted modifications to better accommodate small assisted living facilities and to ensure these providers remain an available option for residents, many of whom rent single-family homes.