The Long-Term Care IMPERATIVE

A Minnesota Collaboration for Changes in Older Adult Services

March 11, 2025

To: Minnesota Senate Health and Human Services Committee
From: The Long-Term Care Imperative
Subject: Senate File 1918

Dear Chair Wiklund and members of the Health and Human Services Committee:

On behalf of the Long-Term Care Imperative, which represents over 2,000 providers across the senior care continuum, we express our concerns and opposition to Senate File 1918, an assortment of changes to Long-Term Care statutes.

We are concerned the proposal would dilute the importance of the medical professional's determination when consenting to electronic monitoring in section 1 of the bill. Section 1 instead entrusts a resident representative's attestation without a medical professional's documentation. Equally important, this change removes autonomy and agency from the resident. Seniors should retain the ability to determine if they desire monitoring in their own home or not, even if their family or other authorized representative would choose differently for themselves.

Sections 2 through 4 are duplicative, as federal nursing home rules already prohibit this action. The language therefore creates an unnecessary secondary retaliation standard. Subdivision 5 of the current law already provides that the Minnesota Department of Health determines retaliation and statute provides penalties. We oppose additional penalties and alternative retaliation standards in statute.

We would also note that caregivers and employers are inundated with mandatory training. While well intentioned, mandatory training takes away critical hours from caregivers providing direct care. Additionally, we caution that the training requirement could have a fiscal cost to the Department of Health, as was determined when legislation creating a mandatory training for de-escalation was introduced during the 2024 legislative session.

While we do share frustrations by many that no projects or funding have been used to date, at this time, we are not supportive of expanding the HCALP advisory board and the duties assigned to the board under sections 6 and 7. We hope to gain a better understanding of the intentions of the author and supporters of the legislation for the other proposed changes.

We are opposed to the new definition of RN in Section 9, as it may be unintentionally carving out ARPNs in these facilities. APRNS are by license registered nurses, so the bill language is unworkable in its current form.

The language changes related to delegation of medication in Sections 12 and 13 need additional consideration. The proposal appears to be disconnected as we consider the existing ability granted in 144G.71 subd. 3, but becomes unnecessarily restrictive in the changes proposed to 144G.71 subd. 5.

We are opposed to the inclusion of Section 15 as it could introduce legal, ethical, operational, compliance, and reputational risks for both acting health care agents and providers alike. Including qualifying terms like "significant" to describe the amount of harm needed is counterproductive to protecting individuals from harm which is the standard required by various state licensures and our Vulnerable Adults Act, not protecting them from significant harm. Any restrictions need to be clearly justified by a legitimate concern for the principal's safety and well-being. The language in Section 15 circumvents the responsibility that the principal has willingly chosen to assign to the health care agent at such time that the principal has been determined to lack decision-making capacity. Administrative documentation would need to support any actions taken and transparency to avoid unnecessary restrictions that could infringe on the principal's autonomy and rights. No presumption of good faith of providers could be implicated for assisting in the enforcement of an invalid restriction, potentially leading to legal claims or penalties. Should this section remain in the proposal, it would warrant further consideration, including providing for process to address disputes between parties.

In summary, the proposal introduces several changes to long-term care statutes that have broad implications and questions as to their construction. We oppose the proposal as drafted and look forward to ongoing conversations with the author and proponents.