



April 2, 2025

To: Senator Hoffman, Committee Chair & Senator Rasmusson, Minority Lead  
CC: Members of the Senate Human Services Policy & Finance Committee

Re: SF2443, Senate Human Services Policy Omnibus Bill

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On behalf of the Long-Term Care Imperative, which represents over 2,000 providers across the senior care continuum, we appreciate the opportunity to share our areas of support and areas of concern with respect to the Senate's Human Services Omnibus Policy Bill. We look forward to continued conversation and collaboration as the bill moves forward.

**Article 1: Aging & Disability Services (and Article 2, Sec. 25)**

- We share concerns with other provider stakeholders about municipal restrictions for residential assisted living providers. Small residential providers already face significant obstacles with licensure compliance; layering on a city-by-city quilt of local ordinances and rental applications will impact access to care for individuals needing care in those settings. In addition, the language in the first sentence of Article 2, Section 25 is problematic as it appears to apply to all assisted living licenses. In addition, the considerations of population, size, land use, community services and existing assisted living facilities in a geographic area are not defined. We look forward to ongoing collaboration to reconcile the concerns of local municipalities with the licensing limitations of 144G as this moves forward..

**Article 2: MDH Policy**

- **Section 32. LPN assessments.** We thank the committee for including provisions to align the duties of a licensed practical nurse with the Nurse Practices Act in assisted living settings. LPNs are a critical part of our care team and restoring their ability to conduct assessments consistent with their scope of practice, just like they can already do in other licensed health care settings, is long overdue.
- **Sections 1-6: PDPM & Case Mix Classifications.** We are neutral on the case mix review changes in section 1-4; our primary concern is how this transition will impact nursing facility rates, though we recognize that is a DHS- related issue. We would respectfully ask the

committee to consider additional policy guardrails in this bill or the Finance Omnibus bill that provide a “do no harm” safe harbor to nursing home providers during this transition.

- **Section 8. Consent to electronic monitoring.** We remain concerned that this language gives family members an ability to circumvent clinical expertise and 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 would choose differently.
- **Section 9-11, 37. Retaliation and remedies.** These sections are redundant. Federal law already prohibits retaliation in nursing facilities, and it is prohibited in *144G.92* for residents in assisted living facilities. As a result, *144.6512, subd. 5* already gives MDH the ability to determine retaliation and provides specific penalties for both nursing facilities and assisted living facilities. Finally, the proposed training on retaliation imposes another requirement that shifts caregivers and facility staff away from direct resident care. We respectfully oppose these provisions.
- **Sections 19, 21, 31 36. Restraints in 144G settings.** We are opposed to language pertaining to restraints at this time, as we feel our concerns have not been addressed with MDH and stakeholders. In particular, we are concerned about confusing language throughout these sections for providers who do not wish to use restraints in their facilities, and does not provide sufficient clarity for use of resident-initiated devices. We also have concerns about the overly prescriptive process and administrative compliance burden created by section 36.
- **Section 20.** While section 20 does affirmatively include APRNs, it remains unclear what problem this language is trying to solve, since it was not brought forward by our regulating entity, MDH or through its stakeholder process. We respectfully oppose these changes.
- **Sections 22, 35. Fire Barriers for Assisted Living Facilities.** We have outstanding concerns with the fire barrier language in 36.29-37.5. The language refers to “constructed” vertical barriers. The term “constructed” is not defined in the NFPA, thereby making the amended language more susceptible to variations in MDH interpretation. We strongly encourage the use of statutory language that is more clearly defined and consistently applied.
- **Section 28. Arbitration.** The use of arbitration and disclosure in a contract was very carefully constructed in 2019 with all stakeholders at the table. We have concerns that this language undoes the spirit of that compromise.
- **Sections 33, 34. Medication Administration in Assisted Living Facilities.** These sections impose unnecessary restrictions to our already-strained caregiver workforce, and create inconsistencies in care delivery. Further, since these changes were not brought forward by MDH or through its stakeholder process, it is unclear what problem this language is trying to solve. We respectfully oppose these changes.
- **Sections 38-40. Health Care Agents.** We remain opposed to the inclusion of these sections, as they introduce legal, ethical, operational and compliance risks to licensed entities. For example, including qualifying terms like “significant” to describe the amount of harm needed is counter to the standard required by numerous professional licenses as well as Minnesota’s

Vulnerable Adults Act. We are open to other solutions to clarify visitation rights for residents in assisted living facilities.

- **Sections 12, 27, 29, 30 (and Sec. 1 of Article 1).** We express our strong concerns with the sections of Article 2 as well as Article 1, sec. 1 of SF2443 related to guardianship and conservatorship. There are instances when pursuing these legal and financial representatives is the most ethical and best option for the resident as well as the facility. Guardianship and conservatorship are often related to providing services to those who have serious medical or behavioral needs; a blanket prohibition on having a guardian or conservator for readmission or admission to a facility is unworkable.

Thank you again for supporting Minnesota's one million older adults and their caregivers across the state. We look forward to working with you.