



April 9, 2025

**To:** Chair Hoffman and Members of the Human Services Committee

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

**Re:** SF 3054

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Chair Hoffman and Members of the Committee:

Thank you for the work this committee has done in a difficult year to ensure the care and rights of the most vulnerable Minnesotans.

Thank you for including Senator Rasmusson's language extending an already appropriated grant for support decision-making. This extension ensures that this important alternative to more restrictive forms of decision-making, such as guardianship and conservatorship, is increasingly available to people who need it. This language supports the rights of vulnerable Minnesotans.

Our organizations are also writing to express deep concern about Article 9, sections 4 – 7 of the SF 3054 A1 amendment. This language dramatically reduces rights and protections for residents in assisted living facilities in the contract termination process. We also hope this committee will add language clarifying the definition of "controlling person" and "controlling individual" for nursing home and assisted living facility change of ownership applications to ensure that new owners cannot evade responsibility by manipulating ownership shares to stay just below the threshold for accountability.

We appreciate Senator Fateh, Residential Providers Association of Minnesota (RPAMN), and the Long-Term Care Imperative (LTCI) for listening to and engaging in discussion about our concerns with this proposal. However, the language currently in Article 9 regarding terminations does not address any of the issues we have raised.

Last month, a resident told this committee that she was preparing herself to become homeless because the termination protections in 144G were not being followed by her assisted living facility, which, of course, is and has been her home. Her fear reflects the reality so many residents experienced prior to the implementation of the consumer protections contained in the Eldercare and Vulnerable Adult Protection Act of 2019, which became effective in 2021. Prior to the implementation of these protections, residents were left to languish in hospitals, institutionalized in nursing homes, and, frequently, discharged to shelter or the street. This law has dramatically changed the outcome for the approximately 64,000 assisted living residents in the Minnesota. These protections are not only essential to protect vulnerable adults, but also have been working for residents.

Our concerns with this language are manifold. The termination process in 144G was negotiated and agreed upon in 2019 by provider organizations, consumer advocates, MDH, and DHS as part of the Elder Care and Vulnerable Adult Protection Act. Consumer Advocates conceded other rights and requirements we wished to see in assisted living licensure to secure these foundational protections. A resident's right to due process as outlined by statute, right to appeal a termination notice if the resident wishes to stay in their home, and right to a safe discharge location achieved through a coordinated move are key protections that greatly reduced the revolving door between hospitals and assisted living facilities prior to

enactment in 2021. Fewer residents board in hospitals, lose their housing and services completely, and experience the negative outcomes of transfer trauma that are inevitable with any move for a vulnerable adult now that these protections are in place.

The most common complaint OOLTC and the advocates hear from residents is related to contract terminations in assisted living facilities. One resident was at the hospital after a health event. The assisted living facility she lived at told her she could not return home. The Regional Ombudsman got involved and reminded the facility of their obligations for terminating the resident's contract. The facility initiated a pretermination meeting as a result. However, the resident was so worried about returning to a facility that did not want her that this vulnerable adult made the choice to move instead. This is a routine occurrence when the contract termination process begins.

OMHDD also frequently hears from clients with concerns surrounding service termination, including being asked to attend the pretermination meetings. Regional Ombudsmen are often successful in helping to resolve concerns such that the termination proceedings do not move forward. This can include strategies such as ensuring services are delivered according to the care plan, updating the care plan to reflect current support needs, and/or bringing in additional services such as a behavioral analyst or mental health support services. OMHDD finds that working through the existing process to find a solution to meet the resident's needs while addressing concerns of the providers and/or other clients in the home is often the most direct and successful outcome.

We oppose this language as we believe it will increase the likelihood of an assisted living resident languishing in the hospital, experiencing homelessness, and experiencing transfer trauma. We ask you to remove this language to ensure the fundamental rights and protections of residents in assisted living facilities are secured. That said, we remain open to continuing our conversations with Senator Fateh, RPAMN, and LTCI in an attempt to address the issues they have raised **without** dismantling the critical protections that the 2019 Eldercare and Vulnerable Adult Protection Act put in place.

For change of ownership applications, adding the clarified definitions of "controlling person" and "controlling individual" will allow the Department of Health to have a complete picture of who wants to own these facilities in Minnesota. This information, included from sections 1 and 2 from Senator Dibble's bill SF 2972, helps ensure there are specified individuals who are responsible and accountable for the functioning of a nursing home or an assisted living facility. Named owners with a history of compliance issues can be excluded from future ownership opportunities, but without these individuals being named, informed decisions on change of ownership applications are more difficult.

Thank you for your consideration of these important issues.

AARP Minnesota

Alzheimer's Association, MN/ND Chapter

Mid-MN Legal Aid

Minnesota Elder Justice Center

Office of Ombudsman for Long-Term Care

Office of Ombudsman for Mental Health and Developmental Disabilities