



March 4, 2024

Dear Chair Howard and Committee Members:

On behalf of the Long-Term Care Imperative, which represents over 2,000 providers across the long-term care continuum, we thank you for the opportunity to provide comments on HF3591 and would be happy to meet with the bill authors to discuss further.

On behalf of our provider members, we are writing to express concerns with HF3591. Most notably, that our assisted living and nursing home provider organizations are already licensed and governed by different chapters of statute that take health, safety and staffing into account, and 504B (landlord /tenant law) does not contemplate those considerations.

Furthermore, the bill appears to be quite sweeping in its proposed changes both with respect to scope (expanded definitions) and changes. We are wondering if advocates bringing this bill forward, worked with other stakeholders to resolve any of the problems they're trying to address or if there have been efforts to work with other stakeholders who may be impacted? They have not reached out to long-term care providers or parties like the Long-Term Care Imperative that advocate on their behalf.

We have several other categories of concern as outlined below:

**Conflicting state or federal requirements**

- The bill includes skilled nursing facilities and there is potential conflict with existing federal regulation. For example, there are very prescriptive admission and discharge criteria and standards outlined in our existing regulations; layering this will not contribute to additional protections, it will further confuse and very well may conflict.
  - 1.14-1.29: Regarding the expanded definition of residential building, the addition of nursing homes is problematic it really isn't appropriate to specifically include them as residential buildings.
- The definition of 'retaliation' is too broad, particularly for health care (or health care-like settings). There are reasonable reasons and procedures for a tenant's contract to be terminated under our existing licensure processes. These are not contemplated in the bill.
  - For example: smoking may be prohibited in an assisted living apartment; the Assisted Living provider keeps talking to the resident about abiding by the no-smoking policy and is non-compliant. Not only is this a regulatory violation that

- the provider is at risk for under 144G, but now under SF3492, the provider may not be able to pass fines or penalties to that resident for non-compliance.
- Sec. 31: regarding damages, this section is duplicative of contract termination, relocation and coordinated move requirements already mandated by assisted living settings under 144G.

### **Cost**

- These proposed changes will further contribute to overall costs in assisted living. The bill will increase costs for providers that will likely be passed onto consumers. We continue to hear about the cost of care from consumers and advocates alike, they relay that affordability is a barrier to accessing care.
- Not being able to charge a screening, pre-lease or application fees:
  - In Assisted Living, for example, for the safety of all residents background checks are performed and this cost is passed on to prospective residents with a minimal charge. Assisted Living facilities also normally charge a nurse assessment fee if or when residents want to begin receiving services--would this be construed as a "screening fee"?
  - Minnesota has a few Continuing Care Retirement Communities (aka, Life Plan Communities), which allow seniors to age in place and increase services as needed. Their financing structure permits- and is sought after by consumers- using an upfront fee.

### **Legal/Litigation**

- Bill proposes very prescriptive language, especially concerning liability.
  - The proposed additions of 504B.163, subd. 1(b), subd. 2(1) and subd. 2(7) are concerning. Subd. 1(b) allows a third-party to assert rights on behalf of a tenant without providing any limitations, scope or definition of what it means to be a third-party.
  - Subd. 2(1) regarding a complaint about a possible lease violation and subd. 2(7) regarding exercising any right or remedy provided by law may be too broad and does not balance the rights of one tenant vs another (or the landlord / health care provider.)
  - 504B.163, subd. 3(2) (see 8.14), which considers a rent increase to be retaliatory. What if a landlord happens to have an annual rent increase scheduled? It doesn't appear that the language of the bill accounts for such circumstances. In the case of assisted living settings, sometimes rent increases are necessary to cover staffing costs or labor, health care services, etc. that we are required to provide as a condition of our license.

Sincerely,



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Cc: Rep. Agbaje

Jack Dockendorf, Committee Administrator