May 11, 2022

Dear members of the HHS Conference Committee:

We are writing on behalf of AARP Minnesota, Alzheimer’s Association of Minnesota and North Dakota, Legal Aid, and The Minnesota Elder Justice Center. Thank you for your efforts to meet the needs of aging Minnesotans by working on various solutions to stabilize long term care services, including nursing homes and assisted living settings, throughout the state.

In 2019 our organizations worked with state agencies, provider organizations, and other consumer advocates to help create and pass the historic Eldercare and Vulnerable Adult Protection Act, which brought Minnesota in line with every other state by creating a comprehensive assisted living licensing system and establishing critical consumer protections for elders in assisted living settings. That system is codified primarily in Minnesota Chapter 144G and only began fully operating just over nine months ago.

All stakeholders have recognized that some adjustments to the original law to account for unforeseen issues may be necessary. To that end, we supported language brought forth by the Department of Health this year that is included in the House Omnibus Bill. These include several technical changes and non-controversial adjustments to the assisted living licensure statutes.[[1]](#footnote-1)

However, we do have serious concerns with the proposed changes to assisted living licensure in the Senate HHS Omnibus bill,[[2]](#footnote-2) many of which were added as amendments without a hearing and do not have widespread agreement among stakeholders.

While we are sympathetic to the difficulties that small assisted living providers are facing, **it is important to approach these challenges in a comprehensive manner and not make piecemeal tweaks that are confusing for residents and complicated to enforce.**

We have met with many of the stakeholders, and we are committed to working with all interested parties over the interim on the issues that the smaller providers are facing in a very challenging environment.

Specifically, the sections that cause concern are:

* **Temporary Change in Staff Training** *(Article 13, Section 22):* While we recognize that this change to staff training temporary, it goes beyond the Waiver allowed under CMS for nursing home staff with potential risks for residents. Under this change, unlicensed staff could perform nursing tasks without the supervision of a licensed nurse, unlicensed staff would not have to demonstrate competency before working directly with residents, and the legislation is vague about what topics would be included in the eight-hour training.
* **Changes in design and life-safety code requirements for AL with less than 6 residents** *(Article 13, Sections 10-12 and 14)*: Although we appreciate that small assisted living providers face challenges, but we cannot support a blanket exemption from design and life-safety standards for programs with less than six residents.
* **Change in Variance Process** *(Article 13, Section 13)*: It is our understanding that this policy language was specifically crafted to resolve the issues facing one provider. We are wary of adjusting state law to meet the needs of one provider in the state.
* **No need for license change when moving to new location** *(Article 13, Section 9)*: We understand that some small assisted living providers operate in rental units, placing them at greater risk of having to move while their license is valid. We are open to a pathway to simplify the regulatory burden for these moves, but this language goes too far and could place residents at risk of substandard living conditions.

In sum, we appreciate the challenges that small assisted living providers are facing and we have indicated our intention to work with all stakeholders – including the providers and the state agencies – on the issues. **However, we urge the conference committee not to adopt the provisions we have highlighted. Instead, stakeholders should engage in a thorough, deliberative, and comprehensive examination of the issues to ensure the needs of providers are met without sacrificing the necessary and existing protections for residents and potentially placing their health and safety at risk.**

Thank you for your consideration.

**AARP**



**Alzheimer’s Association of Minnesota and North Dakota**

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**Legal Aid**

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**Minnesota Elder Justice Center**

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1. *See* SF 4410 (House), 2nd Unofficial Engrossment, Article 2, Sections 30 – 67. [↑](#footnote-ref-1)
2. *See* SF 4410 (Senate), 3rd Engrossment, Article 13, Sections 9 – 14, and 22. [↑](#footnote-ref-2)