

Testimony Relating to Rights of Health Care Facility Residents
Senate Human Services Committee
January 14, 2025
Senate Bill 2070

Chair Lee and members of the Senate Human Services Committee, my name is Joyce Linnerud Fowler, I am the Senior Executive Housing and Assisted Living at Bethany Retirement Living in Fargo, ND. Thank you for the opportunity to testify in opposition to Senate Bill 2070.

Upon review of Senate Bill 2070 it is clear that although Basic Care (BC) and Assisted Living (AL) are included in the definition of facility, the BC/AL level of care was not considered in the proposed updates. Furthermore, aspects of the proposed updates lack clarity and have potential negative impact to existing service delivery.

Some examples of concern include:

Page 3 lines 17 and 18 “The right to have full access to the community, unless otherwise indicated through the care planning process.” This line lacks definition and speaks to care planning processes which is typically not a process in AL. Intent and clarity are of concern.

Page 6 lines 12 – 14 addresses the cost of repackaging medication, inclusion of cost in rate structure and references cost reports. AL and BC primarily use Med Aide 1 level staffing to assist with medication administration. It is critical to AL/BC that meds are appropriately packaged to allow for safe administration. AL is primarily private pay there is no cost reporting process. Including repackaging costs in rates

would be cumbersome for providers to assess and would increase rates unnecessarily for all residents vs residents who have few or no med administration assistance. It does not appear that AL and BC were taken into consideration for this section.

Page 6 line 3 – Page 7 line 26 addresses transfer and discharge of residents. This section lacks language to distinguish between voluntary and involuntary transfer or discharge. AL and BC level of care is very much a home like setting for residents. Most residents are self-directed in terms of care and services they wish to have including deciding if or when they seek medical attention outside of the facility or if they choose to move back to a private residence or move to a different facility. Not making the distinction between voluntary and involuntary transfer and discharge shows again how AL/BC were not considered in proposed changes. Furthermore language in this section is significantly different than existing regulation in AL and BC.

Page 9 line 6-9 states facility must provide written denial letters to potential residents who are denied admission if asked. Of concern is language added to rules that are specific to “health care facility residents” are now extended to those who are not residents. People who are not current residents of a health care facility should not be included in the rules. Is that not outside of the scope of the Century Code?

In conclusion, we appreciate the opportunity to engage with the Long-Term Care Ombudsman earlier this year to review potential updates. However, I was not part of the small group invited to those discussions, and it was evident that the perspective of assisted living was not adequately considered. Additionally, this bill includes provisions that

were not part of the drafts discussed during those meetings. Many of these additions are already addressed under skilled nursing facility regulations and are not practical or appropriate for assisted living, basic care, or swing bed settings, which are also governed by this law. We respectfully urge the committee to consider these concerns and allow further collaboration with the Long-Term Care Ombudsman to develop consensus-driven updates that address the unique needs of all care settings impacted.

Thank you for your time and consideration.

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