

**Testimony Relating to Resident Rights in Long Term Care**  
**House Human Services Committee**  
**March 11, 2025**  
**Senate Bill 2070**

Chairman Ruby and Members of the House Human Services Committee, my name is Nikki Wegner, and I am the President of the North Dakota Long Term Care Association (NDLTCA). I represent 182 members in skilled nursing, assisted living, and basic care. Thank you for the opportunity to testify in support of the proposed changes to resident rights regulations as outlined in engrossed Senate Bill 2070.

During the interim, members of NDLTCA worked with Karla Backman, ND Long Term Care Ombudsman on proposed changes to residents' rights. Although our meetings had been productive, ultimately, when the bill was introduced, we did have some concerns with some of the provisions as we had not been given the opportunity to review the bill prior to this Legislative session. When the bill was heard in committee, we did express our concerns and were able to work with Karla and our providers to reach a consensus on how best to move forward. Mainly, most of the proposed provisions were more suitable for our skilled nursing providers, but didn't account for the differing requirements between our provider groups such as basic care and assisted living.

We remain committed to our shared goal of protecting resident rights and ensuring the best outcomes for those we serve. As amended, we fully support the provisions of the engrossed bill and ask your support for a do pass recommendation.

Many of the requirements originally added in this section mirrored skilled nursing facility (SNF) regulations, such as those outlined in the [Code of Federal Regulations](#) and the [Appendix PP](#). While these standards were appropriate for SNFs as they are a higher level of care, they did not always align with the operational realities of assisted living or basic care settings due to differences in scope, resources, and regulatory frameworks. Additionally, reiterating these regulations in this section for SNFs was unnecessary, as they are already well-defined in existing federal frameworks, which SNFs are required to follow.

There was a disconnect between the bill's original provisions and the practical needs of these diverse care settings. Addressing these issues was essential to ensure that any changes made truly support resident rights without imposing undue burdens or conflicting standards on facilities that operate under different frameworks.

With that said, I'll highlight a couple of the specific areas where our members had raised concerns and provide context for why we believed adjustments were necessary. Again, we appreciate the collaboration with the ombudsman to reach consensus on this bill.

### **Page 5, lines 1-3 – Personal Possessions**

The original proposed amendment stated: *“The right to use personal belongings and to have security in storing and using personal possessions.”* While this language has existed in regulation previously, it was embedded within a broader context. Isolating it as a standalone provision raises concerns that it could be misinterpreted to imply that facilities must provide storage for larger personal items, such as garages for personal vehicles or additional storage spaces. This creates the potential for unrealistic expectations, especially for facilities operating within the constraints of existing space and resources.

To address this concern, we recommended clarifying the language to reflect reasonable accommodations that align with the practical capabilities of facilities while preserving the intent to protect and safeguard residents' personal belongings.

For example, language drawn from the [federal regulations](#) for SNFs may offer a more balanced approach:

*“The right to keep and use personal possessions, including furnishings and clothing, as space permits, unless keeping or using the personal possessions would infringe upon the rights or health and safety of other residents.”*

### **Page 7, line 29 – Physician Authorization**

Regarding the proposed regulation requiring physician authorization for the use of physical or chemical restraints in emergencies, we highlighted a practical concern. Facilities, particularly those in rural areas, do not always have access to a physician 24/7. To ensure timely and effective care in emergency situations, we recommended adding flexibility to this requirement by allowing authorization from a nurse practitioner and physician's assistant. This adjustment will maintain the regulation's intent to safeguard residents while accounting for the realities of staffing and resource availability.

To address this concern, we agreed on this language in red:

The use of a physical or chemical restraint in an emergency or when necessary to protect the resident from injury to self or others must be authorized and

documented by a physician, nurse practitioner, or physician's assistant for a limited period of time.

## **Closing**

With the amendments addressing our concerns, our members are now supportive of engrossed Senate Bill 2070. The revisions provide necessary clarity and ensure that updates to residents' rights are practical and appropriate across all care settings. We appreciate the collaboration between providers, the Ombudsman, and legislators in this effort.

Thank you for your time and attention. I am happy to answer any questions you may have.

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