

Governor Dayton Announces Bipartisan Plan to Protect the Health and Safety of Seniors and Vulnerable Adults in Minnesota but Leaves Out Key Stakeholders

Based on the recommendations of an independent work group convened by AARP Minnesota and a recent report from the Office of the Legislative Auditor (OLA), Governor Mark Dayton announced a broad set of reforms and investments to hold providers guilty of abuse accountable and protect the health, safety, and dignity of seniors and vulnerable adults. It should be noted that providers and provider organizations asked to be involved in the discussions leading up to the introduction of the bill. However, providers and provider organizations were completely left out of the conversation in creating this bill.

This is an issue that is of interest to anyone working with seniors. Please reach out to your legislators to provide your input. The 65-page proposal introduced by the Governor, with the bill authors, AARP director and MDH Commissioner Jan Malcolm, primarily reflects the recommendations of the AARP/Consumer Advocates report, released at the end of last year. Even though stakeholders on the provider side repeatedly requested meetings to discuss the recommendations, and how to prioritize their “wish list”, they were not included. As written, it is a poor bill for providers and if implemented as written, would change the landscape of senior care in Minnesota for years to come. ***If you are a constituent of one of the bill authors, please reach out to them with your concerns. (Rep. Olson, O’Driscoll, Allen, Freiberg, Halverson, Rarick, Hamilton, Liebling, Bernardy, Loeffler, Murphy E., Hilstrom, Fischer, Slocum, Rosenthal, Mriani, McDonald, Uglem or Sen. Lourey, Fischbach, Dibble, Nelson, Eken)***

Sample of issues with Governor Dayton/AARP bill:

- establishes a new health care bill of rights applicable to all settings including hospitals, nursing homes, boarding care homes and housing with services;

- adds new broad-reaching definitions of retaliation for anyone submitting/filing a report or advocating on behalf of a resident or patient where violations can result in \$10,000 fines;

- expands definitions of deceptive marketing practices to include failure to deliver services and/or clearly explain fees;

- establishes a new appeal right to any service termination—even if the services are being terminated for non-payment or the provider is unable to meet that higher level of care;

- all registered housing with services establishments must designate at least 10 percent of rooms/beds for residents receiving medical assistance elderly waiver services;

- individuals who have been a private pay resident for at least one year, resides in a private room, and whose payments subsequently will be made under the medical assistance elderly waiver program may not be relocated to a shared room without the consent of the resident or the resident’s representative.

The camera/electronic monitoring language is far broader than earlier proposals/our current proposal and even includes language that if consent cannot be obtained from the roommate,

the facility must make a reasonable accommodation to either provide a private room or another shared room in which the roommate consents to placement of a camera.

A competing bill (HF 3308, Rep. Kiel) to provide protections for seniors has been introduced and will be heard in the House HHS Committee and it is hoped that it becomes the answer to the abuse/neglect concerns this session.

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF3308&ssn=0&y=2017>

In response to Governor Mark Dayton's proposal to combat elder abuse in Minnesota, Senator Karin Housley (R-St. Mary's Point), chairwoman of the Senate Aging and Long-Term Care Policy Committee, issued the following statement:

“While the governor and I share the same goal of making sure elderly and vulnerable Minnesotans are cared for with dignity and respect, I believe his proposal falls well short and ignores many of the realities of the problem. Nearly all the governor's recommendations come from his handpicked working group, which I believe only reflect one side of an extremely emotional, complex situation. In fact, the governor's proposal does not consider any of the recommendations of the senior care facilities, which were almost entirely left out of the conversation.

“Instead of taking responsibility for the shortcomings and negligence of his own state agencies – one of the main drivers of this issue – the governor placed the blame wholly on the care providers. Despite a well-documented culture of intimidation and neglect that prevented the governor's Office of Health Facility Complaints (OHFC) from serving its function, the governor refuses to accept accountability for the failings of the executive branch. The many hardworking care providers across Minnesota depend on the OHFC for oversight, but it did not live up to its end of the bargain.

“I will be introducing legislation tomorrow that I believe moves us in the right direction and brings all stakeholders to the table. While many of the working group recommendations are incorporated into my legislation, it will not ignore the critical oversight role played by the state. I have been working on this issue for over a year, bringing all stakeholders to the table and searching for a solution that works for all – and those conversations have virtually all pointed toward an urgent need to fix the OHFC.

Read the governor's press release here:

<https://mn.gov/governor/newsroom/?id=1055-330273#/detail/appId/1/id/330273>

Read the full text of the governor's version of the House bill here:

<https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF3468&ssn=0&y=2017>

Read the full text of the governor's version of the Senate bill here:

<https://www.revisor.mn.gov/bills/bill.php?f=SF3088&b=senate&y=2018&ssn=0>

