

Senate Health & Human Services

04/04/2022 01:30 PM

SB22-154 Increasing Safety In Assisted Living Residences

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
William Hensen Against HC 2013 llc,, DBA: Clermont Assisted Living	<p>Please be aware that this proposed legislation does nothing to protect the majority population of Assited Living residents. This bill would limit the power of Adminstrators to get a potentially dangerous resident out of the way of causing problems for the rest of the resident population. This Involuntarey discharge wording is dangerously simple and would not be effective.</p> <p>secondly re certifying Administrators without giving specific guidance is very antiproductive to Assisted Living group Homes.</p> <p>Please vote "No" on getting this into law</p>
Terra Kelly Against Self	<p>This bill adds protections that are already in place, but it allows the state to fine administrators and takes away our rights to decide who we allow in our facilities and our right to protect other residents in our facility from uncomfortable situations. As one who accesses potential residents, I have become extremely cautious of who I will consider for placement. As a results of the person-centered rights, resident now have a right to get intoxicated, do drugs, come and go as they please, allow complete strangers in our facilities in the middle of the night and more, to restrict their rights entails, documentation, training and voluntary consent and case management to do a site visit for approval. This bill will make it even harder for people to find placement, especially those who have struggles to get on the right medication regiment to keep them stable. I believe there needs to be another level of care between assisted living and the state hospital. Like a half-way house, where hard residents have limited rights until they can attain personal stability for a period of time before they move into an assisted living facility to increase their chances of success and the facilities willingness to take a chance on them. I have been involved with running a facility that takes younger residents for 14 years and honestly, This Bill makes me want to close our doors.</p>

*Primrose Place, Inc.*  
*1330 E 1<sup>st</sup> Street*  
*Loveland, CO 80537*  
*Ph: (970) 667-5962*  
*Fax: (970) 667-2834*

April 3, 2022

RE: SB22-154 Increasing Safety In Assisted Living Residences, Concerning increasing safety in assisted living residences, OPPOSE.

Dear Senate Committee Health & Human Services:

My name is Megan Hart, and I am Owner and Administrator of 2 small 18 bed homelike assisted living communities in Loveland, CO. We specialize in caring for those who suffer from mental illness and have been serving this population for over 35 years. Our philosophy is "Our residents do not live in a facility; we work in their home". Our mission is to provide a homelike environment with a person-centered approach. We are almost 100 % Medicaid utilization.

I am asking you to oppose SB22-154 because this Bill is a one size fits all approach. Assisted Living Residences come in many sizes, floor plans, different levels of care or staffing, different levels of training and qualifications, private pay, and Medicaid. When it comes to admission and discharge the administrators need to take all those variables into consideration to determine whether we can meet a person needs and provide them a safe environment.

This Bill is asking under Section 1 (D) (II) that an involuntary discharge NOTICE MUST ALSO INCLUDE AN ASSESSMENT BY THE RESIDENT'S PHYSICIAN OF THE RESIDENT'S CURRENT NEEDS IN RELATION TO THE RESIDENT'S MEDICAL AND PHYSICAL CONDITION. This is one example of the one size fits all approach.

Every Assisted living is different based on the variables I listed above. Some ALR's provide more personal care services than other ALR's. Depending on the specified personal care services training of your caregivers and the staffing level ratios, each ALR can meet different physical and mental health conditions/needs. Without evaluating and knowing the Assisted Living Residence's care model, it would be problematic for a physician to determine if the current ALR can meet their patient's needs. Many physicians do not have experience with what an Assisted Living Residence provides or what level of care they do or do not provide. I am often educating physicians or other providers what services assisted living residences provide. Professionals without experience in the ALR industry frequently believe they all provide the same services. Would a physician feel liable or uneasy making the ultimate decision whether a person is to remain in a possibly unsafe environment or be responsible for them losing their current housing? I am unsure how they can make the decision one way or the other without assessing all variables such as floor plan, accessibility, staffing patterns, staff training, knowledge and/or qualifications and pay sources. I am uncertain how they would make the assessment without knowing the ALR care model.

This issue is important to me and the safety of the people that live in the Assisted Living Residences in Colorado. By requiring a physician's assessment when the ALR can no longer meet their needs or keep them safe or the others around them, will only be neglectful to the resident and the residents also living in the community. Obtaining the assessment could be timely. If the resident does not know a physician well or have one established, it is a concern of an inaccurate assessment, a physician uncomfortable to make the assessment and again will be timely. In return, denies the rights of other ALR residents whose care is compromised at the expense of the resident who needs alternative placement.

This Bill Does not guarantee increase safety and sets up unrealistic expectations. It does not take the many varieties of communities the Assisted Living industry offers into consideration. It does not consider different income sources, such as Medicaid reimbursement.

Please OPPOSE SB22-154

Sincerely,



Megan Hart  
Primrose Place and Heritage Haus

Testimony in support of:

Senate Bill 22-154: An Act Concerning Increasing Safety in Assisted Living Residences within the State of Colorado

Mr. Chairman or Madam Chairman, and members of the Committee, thank you for the opportunity to present my written testimony to you. My name is Jami Shepherd and I live in Windsor. I am a voting member of the Colorado Center for Aging, and I am on the Weld County Area Agency on Aging Advisory Board. I am submitting this written testimony in support of this bill.

**Section 1 of the bill – Involuntary Discharge**

Are Assisted Living/Memory Care evictions Illegal? The short answer is that evictions are not illegal. Assisted living residences and memory care homes are free to kick someone out of their communities, even if that person has Alzheimer's or another related dementia and is not able to care for themselves. The Nursing Home Reform Act does have laws that prevent certain types of nursing home evictions, but this act does not apply to assisted living or memory care communities. Instead, laws around assisted living evictions are state-specific. Typically, policies are set by the state's department of public health. The language used to justify kicking someone out is often vague, the rules are intentionally fuzzy to give facilities flexibility. Furthermore, in most states, the residence can at any time alter its scope of care. This means that your loved one may require a service provided by the assisted living facility, they can stop providing that service and evict your loved one because of their specific needs are no longer being met. A facility can choose whether it provides the specific care your loved one needs to be there. Another source of frustration is that someone can be evicted if their cognitive decline worsens. As anyone with experience dealing with Alzheimer's disease knows, this is what dementia does; it worsens.

Another common eviction approach is to tell the resident's family that the individual's care needs exceed what can be provided by the residence. The family is given the option to bring in outside care providers to provide the additional level of care required. For most families this can become expensive, and the family chooses to move out. Commonly the individual will be moved to a nursing home and the family will seek assistance from Medicaid.

Keep in mind that ownership and management changes in Assisted Living and Memory Care communities are frequent, and often come with policy changes. Any of the above justifications for eviction are on the table when a new leadership takes over; and new ownership has often led to families facing eviction.

Assisted living residents can be involuntarily discharged without an opportunity to demonstrate that they can still meet the facility residency standard and without any judicial process to challenge the discharge decision.

**Senate Bill 22-154 would define a procedural due process concerning involuntary discharges for Colorado senior citizens in Assisted Living residences. This process would protect the residence, help them or their family to understand the rules, know that they can appeal the decision, and get additional help if needed.**

### **Section 2 and 3 of Senate Bill 22-154**

My mother lived in an Assisted Living facility in Weld County from 2013 to 2018. Having a qualified, considerate, and responsible residence Administrator made all the difference in her care. When the Administrator left, the level of care diminished, which also included the numerous facets of running the facility. During the last two and half years of her stay, we had issues with shower or bath reminders and a lack of encouragement on their part, for her to shower or bathe, which lead to my mother's lingering body odor. Her bathroom was constantly dirty, especially the toilet and the facility even utilized a cleaning service. In addition, they could not provide documentation on when care services were provided. I lived over sixty miles away from my mother and had ongoing conversations and emails about these issues. When they increased her level of care, which included a monthly price increase, the conditions remained unchanged.

In 2018, I moved my mother to Memory Care and a brand-new facility. It was great because they had just opened and there were around five to seven residents and lots of staff! My mother received loads of attention and was very content there. Within a year, the Administrator and Activities Director quit, and it took time to fill these positions. That is when I saw the level of care go down. Again, they were not assisting with showers, and I had to practically beg to get the bathroom cleaned. It was disgusting and foul smelling. I found the **care staff** cleaning resident's bathrooms, including the public restrooms, which left little time for resident care. At times I would clean her entire studio apartment which left me a limited amount of time to spend with her since I lived out of town. It was obvious there was little cleaning, her apartment was dusty, and floors were dirty. When I did visit my mother which was two or three times a month, I would find her medication in a plastic cup sitting in various locations within her room. The Administrator continued to give me false hope and promises that the conditions would improve, however they failed to follow through.

At both facilities, I had utilized the Weld County Ombudsman office, which things would change for a while, but it never resolved the ongoing issues.

***Senate Bill 22-154 would help strengthen the training requirements for residence Administrators and their staff. The facility would have access to obtain criminal history and allow them to verify with adult protective services for any elder abuse when hiring all staff. Fines should be imposed to ensure the residence is following the required mandatory reporting of mistreated residents. Bathrooms and shower areas that are not sanitized on a regular basis represent breeding grounds for germs to spread. If proper hygiene is disregarded residents will most likely get sick. The residents who need help doing mundane tasks, are often disregarded, and left in unsanitary conditions for lengthy periods of time.***

### **SB 22-154: Increasing Safety in Assisted Living Residences**

**Sponsors:** Sen. J. Danielson and Reps. M. Young and K McCormick

**Position:** Oppose

**Background:** This bill seeks to add requirements to assisted living regulations for: the involuntary discharge of residents; education of assisted living administrators; and allow for unlimited use of fines against assisted living residences from CDPHE. Christian Living Communities and Cappella Living Solutions opposes this bill for the following reasons:

#### Involuntary Discharge

- Assisted Living providers are required to provide 30-day advance notice before discharging a resident involuntarily. Assisted living providers are required to attempt to meet the needs of a resident prior to a 30-day discharge notice.
- Most involuntary discharges are carried out for the safety of residents and based on already established regulatory requirements. (6 CCR 1011-1 Ch. 7 11.11- 11.17)
- Providers are already required to have a policy and process in place that address Grievances and complaint resolution.
- Finally, requiring a provider to keep a resident they are not able to care for safely, sets not only the resident but the provider up for failure. If regulatory requirements already established are met and providers are not “allowed” to discharge a resident this could lead to more harm for the resident. We as providers must be able to identify when we can no longer meet someone’s needs and act accordingly. Holding up the process beyond 30 days is a risk towards resident and staff safety.

#### Fines

- As a former regulator in another state, I have firsthand experience there is no correlation between excessive fines and improving resident care and safety in long term care residences.
- Implementing higher fines will reduce the monies the providers can pay towards improving their community and wage increases for their staff.
- This can also lead to providers being fearful of reporting occurrences that lead to injury. We want the process to be fair and remove purposeful abuse or neglect without imposing fear on providers.
- If CDPHE feels that current fines are insufficient to address a particular situation, the agency currently has other tools at their disposal that can actually help providers be better these include directed plan of correction, department monitoring, additional training requirements, if those fail to improve the compliance, they have the authority to take actions against the licenses of any Assisted Living residence, including suspension or revocation of the license.

## Education

- Assisted Living Residences administrators are already required to complete a 40 hour training before becoming an administrator and is monitored during the current survey process.

**Summary:** Christian Living Communities/Cappella Living Solutions encourages you to vote “No” on SB 22-154. We are committed to providing the highest quality of care to the older people we serve and are more than willing to work with CDPHE to continuously improve safety within assisted living residences.

Thank you for your consideration,  
Codi Stone, Regional Director of Operations  
Christian Living Communities | Cappella Living Solutions

Hello my name is Linda Garcia. I am a 4<sup>th</sup> generation Coloradan. This is my family.....







## Marie Madeline Lucero Garcia

( January 04, 1937 - September 01, 2017 )

Surrounded with peace, love and light, Marie Madeline Garcia passed on September 1, 2017.

Born in Trinidad Colorado to Beatrice and Alex Lucero in 1937, she is 5th in line to her 11 brothers and sisters. The Lucero family moved to Brighton and later settled in Denver.

She met her love Mike Garcia and married in July 1954.

Marie enjoyed being a mom, raising and teaching her four children David, Michael, Joseph and Linda. She was a fun, devoted and loving mother and wife who lived and lead by example and taught her children to be loving and compassionate towards others. Marie also taught her children to have an open mind and spirit. She truly was the heart of the house.

Marie was an activist, and helped give those a voice that needed to be heard. She volunteered with the homeless and children were her passion. Her generosity and care for others was contagious. Marie's sense of humor and laughter were infectious.

Throughout her life of loss and hardship, she remained strong and dedicated to the Lord. In her later years, she was surrounded by the love and laughter of many Beautiful human beings. She had a deep connection with her daughter Linda who was present when she got her wings and could fly.

After many years in between, Mike was welcomed back into her heart. Our parents were able to share precious moments and memories together when it really mattered. And in the end, there was love, just love!

Mama, Marie, Maddie, Auntie Nena...

was loved and adored by her extended families, her nieces and nephews, her friends and all who knew and knew her.

She will be missed dearly.

The Garcia family invites you to the celebration of life, Friday, September 15, 2017



**Michael J Garcia**

( August 18, 1932 - December 28, 2020 )

Michael J. was born in Denver on August 18, 1932. He passed peacefully on December 28, 2020 at the age of 88. He did it his way!

His body grew weary with time and age until he drew his last breath. There upon his full circle of life complete. He missed his loved ones so dearly, longing to reunite with Maddie, David, Michael, and Joseph. I know that they welcomed him back home and his heart was fulfilled evermore.

This is not easy to sum up my fathers life with kind words and memories... having said this:

My father looked up to his brothers. The stories he shared of the Garcia boys selling newspapers, wagons of ice and soap his mama made (on the streets of Denver during the Depression era) are so telling of the times. The hardships and determination were a blueprint of the man he would become.

He was a proud graduate of West High School. Geography was one of his favorite subjects. He was active in sports he enjoyed such as football and boxing. His love for

music inspired him to play guitar, and he was known to be quite the crooner to swoon all the girls!

He enlisted in the Navy and served his time in the Korean War as the ship's barber. He became quite the bodybuilder, strong like a bull! Upon his return, he remembered a beautiful young girl he met before his call for duty... my grandparents Alex and Beatrice gave my mother and her soon-to-be husband Mike their blessing.

He was ambitious and an entrepreneur-- Mike's Barber Shop opened its doors in 1953. The opportunity arose and he was offered a position with the Silverton, Colorado mining company as treasurer. The driving to and from Durango and Silverton proved to be treacherous, but he fulfilled his spirit of adventure with the spectacular, majestic mountain views. Throughout all his work endeavors he retired with Coors Brewery.

These were the best years of his life-- a beautiful wife, a beautiful life! His love for Maddie was never-ending, regardless of space and time. He adored his eldest son David, and his twins Mikey and Joey. Linda will always be the apple of his eye.

The road trips across the country during spring breaks were always fond memories for my father. He enjoyed his young family. Gatherings with all the cousins, aunties and uncles, nieces and nephews, with friends, singing, laughter, fun and delicious food were an invitation for Mike to get the guitar and... swoon all the girls!

I will miss our time spent together. I will miss watching you enjoy your Spaghetti Westerns. I will miss listening to the colorful stories of your life. I love you. You are my daddy, Michael. You always have been and you always will be...



## **Loss of a Parent**

*You gathered incredible strength  
in order to die  
to seem calm and fully conscious  
without complaint, without trembling  
without a cry*

*so that I would not be afraid*

*Your wary hand*

*slowly grew cold in mine*

*and guided me carefully*

*beyond into the house of death*

*so I might come to know it*

*Thus in the past you used to take my hand*

*and guide me through the world*

*and show me life*

*so I would not fear*

*I will follow after you*

*confident as a child*

*toward the silent country*

*where you went first*

*so I would not feel a stranger there*

*And I will not be afraid*

*Blaga Dmitrova*











**Our Story:**

My parents married very young in 1954 when my mother was only 17 years old and my father was 23. They wanted children and were blessed with four healthy babies including my three brothers, and as I was told as the youngest and the only girl, the cherry on top! People would say oh you must've been spoiled, my response was, sure I was spoiled but it was their love that filled my heart!

My brothers were my bodyguards and the best big brothers a girl could have. My parents were not perfect, but they came pretty damn close! I'm grateful I have such wonderful memories of my family, of course not without bits of dysfunction that manifest within all families. We respected each other and were of service to others. Our deep faith in God was the glue that held us together in our most trying times. My mother was the heart of the house, and I often reflect on my mother's wisdom and inspirational poems. She remained strong in her faith, resilient and fierce until the end.

Unfortunately, my brothers passed away and I was left to make important decisions to ensure my mom and dad's well-being, care and safety were my top priority. My goal was to insure they were living in a healthy environment where they can thrive as they aged and have dignity to the end. I had conversations with my parents about love, life and death. I promised them that I would do whatever I could to ensure their well-being. I did not want them to have any pain or any suffering. They both said we don't want to be a burden. No parent wants to feel as though they're a burden on their children. I told him they were never a burden! I love them and it was my honor. Family, love and sacrificing is not a new concept within my family.

The advocacy for your loved ones comes at a hefty cost on your mind, body and spirit, not just your pocketbook. In addition, there is very little, if any, resources for caregivers. I know this because I had to keep searching and searching, to not only help myself, but to help the other caregivers I would encounter. We all shared concerns about our parents and love ones, and the lack of care they were receiving in elder facilities. So much for growing old gracefully.

I feel extremely grateful that I have a therapist that has helped me go through these hard times. I understand everybody does not want to seek this kind of help or can afford the service, but it should be available to all at little or no cost. I have caregiver burnout beyond, and I feel broken and suffer from PTSD. My mother's inspiration continues to give me strength to advocate for the elderly, even in spirit. I know my parents were acutely aware of the neglect and abuse they received in elder care facilities. How could they not, for god's sake they had to live, eat and breathe it!! I have such anger and disappointment concerning elder care facilities and could go on and on about this with would anyone willing to help make change.

I did my best to shield them from the chaotic interactions from the top of the food chain to the bottom. I don't think I was asking too much to make sure my parents were showered, fed, and if they weren't hungry at the time, given other options when they were ready to eat later. Every entity and request were dismissed in regard to accommodating my parent's needs.

My challenge was to try my best to remain calm and collected. God forbid if I inquire with staff about how their night was and how their day is going. Inquiries were met with deceit and deflections, never giving me appropriate answers to simple questions but reassuring me they were receiving the care I was told they would receive. I would leave feeling sick to my stomach with nowhere to turn, but you go on to the next day and pray they received care and were safe. It was a constant uneasiness I had to contend with.

I will sum this up. I'm a daughter. I am my mother's daughter and I am my father's daughter. More times than not, visiting them became stressful for all of us. It should not feel like this. I

tried to make it calm and relaxing filled with memories, laughter and special treats they would enjoy. This is the very least that they deserved. I have done all I can do, and now it is time for reform. It's time to acknowledge the harsh realities of what is truly happening behind closed doors, so we can trust our loved ones in the care of elder facilities. The Senate Bill 22-154 is a step in the right direction. Please on behalf of all families dealing with care for their parents and loved ones have accountability by the facilities that take care of them. The most important thing is to give our elderly dignity in the end without stress, anxiety and neglect in the care of elder facilities.

Linda Garcia

## Senate Health & Human Services Committee Hearing – Testimony

### SB22-154 – Increased Safety in Assisted Living Residences

April 4, 2021

Madam Chair and Members of the Committee, my name is Mary Fries and I am a Volunteer with AARP Colorado, which has 670,000+ members.

AARP strongly supports SB22-154.

This bill establishes a process and protections for assisted living residents from being removed from their **homes** against their will. This bill is needed because the standard presently used, “The resident is a danger to himself or others,” is a blank check for Administrators to remove residents from facilities on an expedited timeline.

Three minutes is not enough time to describe an overview of the first days of my parents’ forced removal process that recently occurred in California, but I was there for over a month to fix the crisis that the facility put our family through. It was a daily battle to persuade the facility to follow their residential contract.

California law provides specific protections for assisted living residents, such as written notice, a 30-day transition, nursing assessments, Care Team meetings and involvement of an ombudsman if needed. We were unaware of these laws, but luckily, those provisions were included word for word in my parents’ contract, and we were able to leverage those provisions for a more humane removal process.

Dad has short term memory issues and Mom has physical limitations, and working together they lived quite well in an Independent Living apartment, and were independent in the community... shopping, medical appointments, visiting family and friends. And part of working together meant that Dad never left the apartment unless instructed to by Mom.

Last May, as COVID restrictions eased, their facility’s activities resumed. Mom told Dad that it was time for him to go to indoor volleyball. Dad hadn’t been to volleyball for over a year, and on his way for his first time back, he got lost and wandered off the campus.

This started a chain of frustrating and traumatic events. We were told that Dad was immediately moving to memory care, which meant Mom required an immediate move to assisted living. Again, I don’t have time to share how the facility steamrolled Mom during the first 6 days.\*\*\*

It was clear to us that the California statute was written to provide basic humane treatment. Still, at every turn, advocating for our parents was a battle. There were lots of tears. During the process, I often asked myself, “What would happen to a resident who did not have family support and strong advocacy?” Fortunately, family advocacy provided at least enough delay so that when Dad was moved, his personal things were waiting for him in his new room, so his first night alone would not be so traumatic.

Please vote YES to protect against **exploitation** of vulnerable older adults against involuntary transfers.

I am happy to answer questions.

Mary L. Fries, AARP Volunteer Advocate  
6627 S Chase Ct., Littleton CO 80123

### **\*\*\*The first 6 days...**

On a Tuesday we heard Dad would be moving to the Memory Care that **Friday**, despite the fact that the facility never abided by the provisions of the contract and California law. There was no written notice, no 30-day transition, no nursing assessment, no Care Team meeting, and more.

That day, my brother called the facility, stating that forcibly moving Dad went against provisions in their contract. The response was “Okay, we’ll go by the contract.”

Yet, on that Thursday when I called Mom to see what was going on with the process, she said, “Dad is moving tomorrow (**Friday**) and they’re coming today at 4 to discuss what furniture moves with him.” The staff simply provided Mom with written and verbal “to do” lists, and an unsigned, written transfer notice, with all the spaces left blank except for Dad’s transfer date. She seemed panicked and stressed under the weight of everything that had to be done, bearing it all on her own.

I immediately phoned the Director of the of the facility, and she acquiesced, admitting the facility was not following their transfer policies and procedures. She postponed Dad’s move, and only at that point, scheduled the required Care Team meeting.

I traveled to California for the Sunday Care Team meeting, and in the end, we were told Dad was moving to Memory Care the next day (Monday), that the decision had been made the previous week. Dad would move to a room with only a hospital bed and pillow. That was their plan, because Dad was allegedly a danger to himself or others.

We felt defeated; we had not been heard. The facility continued on the path to put **themselves** first. At dinner, Mom stated, “This is the last night Dad and I will be together as a married couple.”

Returning to my brother’s home, I thought, “This cannot stand.” I was able to set up a 9:30 meeting for the next morning (Monday, Dad’s transfer day), to again advocate for my parents. I had to track them down, and at 10:10, another faceoff took place. I was in tears much of the time, but at the 45-minute mark, I think they sensed I was not going to back down. Our family would not accept the abrupt move, to an unfamiliar place and people.

They granted us four days, hardly enough time to purchase a bed, linens, label clothes, move furniture, and hang photos so his move would be less traumatic. And still, when visiting hours were over, and we were leaving Dad in his new room for the night, he looked me straight in the eyes and asked, “You mean I don’t get to be with Ann anymore?”



925 S Niagara St Suite 600

Denver, Co 80224

***Representing >29,000 Coloradans***

RE: SB22-154 - SUPPORT

Members of the Senate Health & Human Services Committee

Dear Senators,

The Colorado Alliance for Retired Americans is in strong support of SB22-154, "Increasing Safety I Assisted Living Residences."

This is a very important bill and years overdue especially since our Colorado senior population is growing so significantly. Assisted Living Residences frequently prey on our seniors. This bill identifies issues including processes for involuntary discharge, rule-making, restrictions on, and standards for these facilities.

Please support this bill.

Sincerely,

CARA Lobby Committee, Mona Moffatt, Sara Gagliardi, Sheila Leider, Ed Augden, Ken Debey

**The Granville Assisted Living Center  
1325 Vance Street  
Lakewood, Colorado 80214**

**303-274-4400**

**MEMORANDUM**

Date: April 3, 2022

To: Colorado Senate Health & Human Services Committee

From: Oatfield W. Whitney III, CEO

Re: Senate Bill 22-154 Concerning Increasing Safety in Assisted Living Residences

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I am the CEO of The Granville Assisted Living Center located at 1325 Vance Street, Lakewood, Colorado and I am submitting this memo in opposition to Senate Bill 22-154 for several reasons.

The proposed language in the Bill appears to create a duty that is already required by Colorado Department of Public Health and Environment Regulations, specifically, the Involuntary Discharge and Notice provisions in Section 1. 25-27-104.3(1)(a)(I) are already required by 6 CCR 1011-1 Chapter 7, paragraph 11.16 which states:

*The assisted living residence shall provide written notice of any discharge to the resident or legal representative 30 calendar days in advance of discharge except in cases of imminent physical harm to or by the resident or medical emergency, whereupon the assisted living residence shall notify the legal representative as soon as possible.*

In addition, the notice to the ombudsman required in Section 1. 25-27-104.3(1)(a)(II) is provided for in the CDPHE Regulations at Chapter 7, paragraph 11.17 which states:

*A copy of any involuntary discharge notice shall be sent to the state ombudsman and the designated local long-term ombudsman, within five (5) calendar days of the date that it is provided to the resident or the resident's legal representative.*

The CDPHE Regulations further require assisted living facilities to have a policy and procedure for Discharging a resident. We provide a copy of that Policy and Procedure and explain it to the resident when the individual moves into the facility so expectations for discharge are clear at that point.

The proposed Bill does contain more detailed requirement for the Notice and the Grievance process. While a detailed explanation of why a resident is being discharged is not objectionable, the Grievance procedure needs work. The Grievance should challenge the specifics of the reasons for discharge...e.g. my mother is not that incontinent, or my dad didn't violate the House Rules, something specific so the facility will know what further investigation needs to be done. In addition, the "14 day" time frames seem unnecessarily long in some cases. The resident or legal representative should know much quicker than 14 days that they object to the discharge. Also, no time frame is set for a review by the Director.

Having a doctor provide an “assessment” of the resident as support that the facility can no longer provide the services necessary can be troublesome since not all assisted living facilities are alike...we don't all provide the same services, i.e. incontinence care, transfers, etc. This provision should be qualified to provide clarity to both parties.

It seems that this Notice and Grievance portion of the Bill could be handled better by asking CDPHE to come up with the Grievance procedure since CDPHE already regulates assisted living and understands better how assisted living facilities operate.

Thank you for your consideration.

Oat Whitney  
CEO