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**Testimony of Alison Hirschel before the Michigan House Health Policy
Committee regarding SB 956**

Good morning, Chairman Vaupel and members of the Committee. I am the Managing Attorney of the Michigan Elder Justice Initiative. My testimony today regarding SB 956 is on behalf of the Michigan Long Term Care Ombudsman Program (MLTCOP), which strives to improve quality of life and quality of care for residents of licensed long term care settings. MLTCOP provides information and support to residents and families, advocates for residents' rights and preferences, and engages in systemic advocacy on behalf of long term care consumers. I also speak on behalf of the Michigan Elder Justice Initiative, a non-profit organization that provides free legal and advocacy services to vulnerable older adults and people with disabilities.

As I noted in my prior Senate testimony on this bill, I deeply appreciate the legislature's concern for nursing home residents and grieve the tragic loss of almost two thousand nursing home residents and 22 nursing home staff. As we face the continuing threat of COVID-19, we need to learn as much as possible to prevent further loss of life. The substitute for SB 956 that passed the Senate requires MDHHS, in collaboration with LARA, to conduct an evaluation of the operation, efficacy, outcomes and performance of each of the nursing homes designated as regional hubs. We think that could be illuminating and appreciate that provision in the bill.

The bill also requires the state to develop a dedicated facility that would be used solely for COVID-positive residents in each of the eight health care regions of the state. We have the following questions about the proposed facilities:

- Are there suitable vacant facilities available in each region to meet the needs of residents who are COVID-19 positive? If not, how long would it take to establish and equip centers to meet the needs of these residents?
- Would these facilities have to go through the usual nursing home certificate of need, licensing and certification processes before they could be utilized? Would they have to be approved for occupancy? How long would those administrative requirements take?
- How would these facilities be staffed? Given the extreme shortage of direct care workers in existing facilities, how would staff be retained to meet the needs of very ill residents in these new facilities? If higher compensation or other incentives were offered to direct care workers to encourage them to seek employment with these new centers, would that further deplete staffing at existing homes?

- Are centralized facilities necessary in every region? Since the number of cases varies greatly across the state and at different times, would it be wise to create these facilities if, in some regions, they would have limited utility?

We also appreciate the bill's attention to non-hub facilities since we cannot assume that COVID-19 can be confined to hubs or to the proposed designated facilities in each of the health care regions. Since staff will continue to move on a daily basis from the community where they may be exposed to the virus to the nursing homes in which they work, there will be a continuing risk in every facility of staff exposing residents to the virus. We support strong, on-going state monitoring of all facilities to ensure they implement appropriate and consistent infection control practices and policies and provide staff with proper training and support.

The bill also mandates that nursing homes may care for COVID-positive residents only if the residents have recovered or if the nursing home has a designated area and program that is approved by the Department to care for COVID-positive residents. We have the following questions about this section:

- Section 21717(l)(b)(i) would permit individuals who have "recovered" from COVID-19 to be admitted to or retained by a nursing home. What is the definition of "recovered"? The Centers for Disease Control's complicated guidance on this issue includes symptom-based, time-based, and testing-based strategies to determine recovery status.
- Section 21717(1) refers to both admission and retention of COVID-positive residents, but subsection (1)(b)(ii) speaks only to retention of residents. Would nursing homes with approved areas and programs be permitted to admit COVID-positive residents as well as to retain them?
- We appreciate the goal of having the Department approve a facility's designated areas and programs before COVID-positive residents can reside there but realize that the approval process may be time-consuming. Within what time frame would the Department be expected to evaluate all of the designated areas? What would happen to COVID-positive residents in the meantime?
- Which Department would be responsible for approving the designated areas and programs? The language of the bill suggests that the "Department" refers to MDHHS. However, approval of the area and infection control program may be a more appropriate or feasible function for LARA.

MEJI and MLTCOP cannot support the bill until it provides more clarity on the questions outlined above. But we deeply appreciate the Legislature's efforts to protect vulnerable nursing home residents, to learn from our experience with hubs, and to find optimal strategies for preventing further nursing home resident and staff infections and deaths.

Thank you for your consideration of our comments.

