

September 18, 2023

Chairwoman Young and Members of the House Families, Children and Seniors Committee:

I appreciate the opportunity to submit written comment on House Bill 4841 also known as Teresa's Law. I am Salli Pung and I have the privilege to serve as Michigan's State Long Term Care Ombudsman. The Michigan Long Term Care Ombudsman Program (MLTCOP) advocates on behalf of residents in licensed nursing homes, homes for the aged, and adult foster care homes. Part of our advocacy includes assisting in the development and review of federal and state legislation, regulations and policies that affect this population.

HB4841 proposes to update the licensing requirements for over 3,800 adult foster care homes (AFC) across Michigan. The intent of the recommended changes is to provide for more accountability in the delivery of care and services as well as increased transparency for ownership and compliance history. The other significant change would include the implementation of a civil penalty or fine imposed against an AFC provider for noncompliance with AFC licensing requirements. We appreciate the focus on improving the experience of an AFC resident through these interventions. While we support the effort to ensure appropriate training and staffing, transparency of ownership, and accountability for compliance of AFC providers, we have concerns that a few of the requirements as they are written may change the level of care provided in AFCs and the intent of the important role for AFCs within the continuum of long term care.

We commend the sponsor for language in the bill that would enhance the staff training requirements. We would suggest an alternative to requiring the direct care givers in AFC attain the certification required of nursing assistance in nursing homes through the Department of Licensing and Regulatory Affairs (DLARA). We suggest the committee consider pointing to the recommendations from the MDHHS Direct Care Workforce Advisory Council in standardizing competencies and training requirements. Utilizing these MDHHS competencies and newly developed training programs could provide needed flexibility for the AFC provider to tailor the training based on any specialized needs of the home's current residents as well as enhance baseline training requirements.

Also, we share concerns of certain medications being administered by staff not trained in the administration of complex medications or treatments or monitoring residents for negative outcomes from those medications and treatments. We strongly feel that enhanced training should be required of those administering medications and treatments to residents as well as those operators who have the responsibility to oversee the training for medication administration. We believe the recommendation to staff the AFC with a Licensed Practical Nurse (LPN) for 24 hours a day, 5 days a week is a direct reflection of the need for oversight of medication and treatment administration. If enhanced training is required for AFC staff responsible for medications and treatments, the need for nurse oversight should not be necessary. It's important to note that residents with advanced nursing level of care needs should be attended to by other service programs or in other settings as nursing services are not a standard service in adult foster care homes, rather these homes are intended to provide hands-on support and supervision to the residents.

The requirement for a social worker and licensed practical nurse to be on-site may change the environment envisioned for AFC homes. AFC homes should be supportive of resident's independence and promote community engagement and quality of life driven by the resident. With additional clinical staff on-site, the AFC home can become more like our highly regulated nursing home. We believe that each resident should receive the supports and services necessary to thrive and sometimes that is through outside agencies or appointments with community providers. We would not want to see small family operated AFCs move from a home environment to that of a skilled nursing facility due to the requirement for staffing with a nurse and social worker.

We would recommend the committee consider requiring every AFC provider to fully explain the services which are delivered by the AFC provider and the limits on those services as well as an explanation of any services which may be provided by an outside agency. There is much misunderstanding by consumers of some AFC homes as to the licensure status and limitations on service delivery. Many consumers contact our office to report concerns about their nursing home only to learn they are in a licensed AFC home.

Although we have provided suggestions for a few revisions to the bill, we strongly support the following requirements and concepts contained in the HB4841:

- Disclosure of AFC specific information prior to admission including status as an AFC, complaint process, staffing ratios, training requirements, and medication administration policies;
- Explanation of DLARA complaint process including investigation and appeals processes;
- Detailed staffing requirements for operators/managers and direct care staff;

- Explanation, posting, and ensuring protection of resident rights;
- Ensuring residents' physical, emotional, and mental health needs are met;
- Ensuring residents are protected from neglect and abuse;
- Required training for direct care staff on specific topics related to the aging process (i.e., resident rights, dementia, death and dying) and well as documented training plans and continuing education requirements; and,
- Imposition of civil penalty for actions or inactions that negatively impact a resident

We appreciate that the bill requires transparency of AFC provider specific information regarding the ownership, operation, staffing, training, and compliance history for the general public to review. We support this requirement as well as any one-time funding that may be necessary for the Department of Licensing and Regulatory Affairs to implement any needed database and website changes. We cannot stress enough the importance of a consumer to be able to educate themselves on the standing of an AFC provider as well as have current owner and staffing information when making the incredibly difficult decision for admission to an AFC.

We strongly support the overall intent of this bill to ensure adequate delivery of services, protections against resident neglect and abuse and resident right violations as well as accountability and transparency of operators. Should the committee elect to convene a workgroup to continue working on this important piece of legislation, the MLTCOP stands ready to respond and participate. Thank you for the opportunity to provide testimony on HB4841.