

September 19, 2023

Senate Health Committee
Sen. Cabral-Guevara (Chair)
State Capitol Rm 123 S.
Madison, WI 53707

Dear Sen. Cabral-Guevara and Members of the Committee:

The Survival Coalition thanks the committee for the opportunity to provide comment on SB 155. Survival Coalition recognizes the significant burden many long-term care residents face finding a place to live, a challenge that is compounded when they must move within a specific period of time.

We support improving notification requirements and allowing more time for residents to locate another placement. However, disability and aging advocates caution the proposed changes in **this bill will not be applicable to many residential settings** in which older adults and people with disabilities live, and as such residents in these settings will receive no additional notice.

The Chapter 50 relocation/closing process only encompasses skilled nursing homes (SNFs) and Community Based Residential Facilities (CBRFs), not Residential Care Apartment Complexes (RCACs) or Adult Family Homes. Assisted living communities are not bound by the same rules that apply to institutional Medicaid and discharge and are not regulated under Ch. 50.

Additional residential setting types where people receiving long-term care services live fall under different license types and are regulated differently based on the license they hold (see table below).

Residential setting ¹	
Skilled Nursing Facility (SNF).	Subject to Ch 50.
Community Based Residential Facilities (CBRF).	Subject to Ch 50.
Residential Care Apartment Complexes (RCACs)	Not subject to Ch 50 for relocations.
Adult Family Homes (AFH) 3-4 beds.	Not subject to Ch 50 for relocations.
AFH 1-2 beds. 1-2 bed AFHs that are Certified by Managed Care Organizations or IRIS Consultant Agencies ²	Not defined or referenced in statute or Ch 50.

Broadly, SNFs and CBRFs—regulated under Ch. 50—that end up announcing closure do follow the Chapter 50-prescribed relocation planning process, in practice affording residents 90 days to relocate in CBRFs and 120 days in SNFs. As these closures have occurred, they largely seem to follow both Chapter 50 and the Family Care contract with few exceptions, and today are seen as business decisions that

¹https://longtermcare.wi.gov/Documents/LIBRARY_site%20download%20files/Comparison_of_Long_Term_Care_Options1.pdf

² <https://www.dhs.wisconsin.gov/publications/p0/p00638.pdf>

MCOs and providers are allowed to make, despite leaving residents vulnerable to relocation and the potential associated transfer trauma.

Advocates agree there should be **regulatory uniformity across residential setting types**. Frequently residents are placed in settings based on bed availability. Residents are unaware of what license type the setting they live in holds, let alone that the requirements differ based on the license.

Advocates agree **discharge notification requirements should be consistent regardless of setting license type**. We also suggest that the relocation process, consumer guidance, and protections be uniform no matter which type of residential setting a person resides.

There have been discussions on how to improve Chapter 50 to both broaden the rules and afford uniform protections of all residents/tenants across all residential facility licensure types.

Advocates recommend amending Ch 50.01 (1) by redefining 1-2 bed AFHs to include Certified 1-2 Bed Adult Family Homes certified by Managed Care Organizations or IRIS Consultant Agencies and modifying the bill to include all licensed residential types as being subject to Ch. 50 for relocations and associated notice requirements.

Broadening Ch 50 may offer opportunity to better protect resident/tenants who are Family Care members, as well as those who pay privately. Advocates note that when residents are moved because an MCO has dropped a provider from its network or a provider has decided to no longer contract with an MCO, there are **no Ch 50 protections**, even if it means the relocation of large numbers of residents. This practice almost completely disregards resident rights regarding discharge notice, planning and choice.

The current MCO contract requires notice when providers are dropped from an MCO's provider network, however when the MCO declares an emergency situation, these notice requirements do not need to be met. Emergency declarations can be a common practice and can vary by MCOs, in terms of what constitutes an emergency. Whether the MCO is ending a contract with a provider or the provider is ending a contract with an MCO, the provider may need to do a written discharge notice for the resident, depending upon the type of facility. However, in practice, these notices are not always provided with consistency and sometimes with no discharge planning processes. Advocates do not believe the bill addresses these issues for all residents and under most conditions as they occur today.

Unfortunately, for many people faced with relocation there are few or no long-term care residential options, especially for individuals who are on Medicaid and/or have complex care needs. This bill does not address limited residential services capacity or quality of residential services. If this bill became law, some people would have more notice, but they would still have few or no options.

Advocates welcome the opportunity to continue the conversation and work collaboratively with the legislature to address these important issues.

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