



JESSIE RODRIGUEZ

STATE REPRESENTATIVE ★ 21ST ASSEMBLY DISTRICT

SB 919: Closure or Change of Services and Relocation of Residents in Adult Family Homes

Testimony of State Representative Jessie Rodriguez

Senate Committee on Health

February 6, 2024

Thank you Chairwoman Cabral-Guevara, Ranking Member Johnson, and members of the Senate Committee on Health for the opportunity to testify on Senate Bill 919 (SB 919). SB 919 will establish procedures and requirements for the Department of Health Services (DHS) and adult family homes to follow when an adult family home is closing, changing its type or level of services, or changing the means of reimbursement that they will accept.

A constituent brought me this proposal after receiving sudden notice of the closure of the adult family home where his daughter was residing. The father's name is Larry Haskin; he is here today to testify on this bill after me. This unforeseen circumstance led to a challenging and uncertain situation for the family, as they hastily sought a suitable alternative placement for their daughter without clear guidance or relocation assistance from DHS nor the adult family home.

This bill specifically provides notice requirements and duties for relocation of residents in adult family homes with 3-4 beds. We modeled this bill after Wisconsin's existing processes for the closure of other regulated residential care facilities under Chapter 50, which in turn will provide more uniformity across residential care setting types.

SB 919 requires DHS to assist and participate in the relocation process by aiding in the planning, placement, and implementation process for the impacted resident(s).

This bill also requires the adult family home closing or changing their service to provide written notice to DHS 30 days prior to closure or changes of their services. At the time of notification, the adult family home must submit a relocation plan and work with a managed care organization to secure an alternative placement for impacted residents within the facility. The bill gives residents the right to request a hearing regarding the adult family home's compliance with the procedures outlined in this bill.

Overall, SB 919 provides more assistance in the relocation process for residents and takes a step in the right direction towards consistent resident protections across residential care setting types. I encourage your support for this legislation. Thank you for your time. I welcome any questions you may have.



ROBERT L. COWLES

Wisconsin State Senator, 2nd Senate District

STANDING COMMITTEES:

Natural Resources & Energy, Chair
Transportation & Local Government, Vice-Chair
Economic Development & Technical Colleges

Testimony on 2023 Senate Bill 919

Senator Robert Cowles
Senate Committee on Health
February 6, 2024

Thank you, Chair Cabral-Guevara and committee members, for allowing me to testify today on Senate Bill 919. This bill would modify statutes overseeing the management of our state's adult family homes to better support the residents of these facilities and their families.

Under current statutes, adult family homes with three to four residents are not subject to Chapter 50 protections that would typically support residents in the event of a facility closure or limiting of services. That means that, if an adult family home were to suddenly announce it would cut its current levels of service or shutter its doors altogether, the families served by that home would have to immediately begin the act of relocating their loved one without any support in the process of planning and placement from the adult family home. Senate Bill 919 would provide each adult family home resident, as well as their family or legal guardian, with a written notice regarding the closure or change in service before they occur. Enacting such a requirement would keep these regulations consistent with those governing Wisconsin's nursing homes and community based residential facilities.

Senate Bill 919 would additionally require the adult family home undergoing the closure or change in service process to notify the Department of Health Services (DHS) of its intended actions. From there, DHS officials would be obliged to provide aid to affected residents as they begin to plan and implement a relocation process in another facility. The bill also gives impacted residents the chance to request a hearing on their adult family home's compliance with the notification and relocation processes outlined in this bill; the hearing would need to be requested within the 30-day timeline following the notice of closure or change in service.

With Senate Bill 919, we hope to clear up the inconsistencies in Chapter 50 regulations overseeing adult family homes in Wisconsin. The requirements outlined in this bill afford a stronger defense of patient's rights in the face of the scary possibility that an adult family home might cut back on services or completely close down its operations. The residents of these facilities – who are often unable to care for themselves due to advanced illness or disability – and their families deserve proper statutory clarity to support them as they receive the care they need.

Senate Hearing Testimony
Lawrence J. Haskin
February 6, 2024
Regarding Senate Bill 919

I want to thank the Committee for the opportunity to testify at today's hearing. My name is Larry Haskin. My wife, Holly, and I are parents and guardians of our daughter Kelly, who is autistic and cognitively disabled. Kelly is 46 years of age.

Beginning in 2016, Kelly has lived in an adult family home, or group home, operated by REM Wisconsin. In April 2022, we received notice that REM was closing its adult family home within 30 days. Kelly needs to be dressed, showered/bathed and have food prepared for her; she has no idea of the value of money and would never be able to shop on her own. In addition, she is prone to emotional outbursts. She has the cognitive level of a 5-year-old. She needs full-time care 24 hours a day, seven days a week. The abrupt group home closure created a real crisis for our family.

When we received the 30-day notice, we were surprised to find out that we had no recourse to appeal REM's decision, and REM had no responsibility to find suitable, alternative housing for Kelly under the current state of the law. We reached out to the Department of Health Services "DHS" and were told we had no recourse. Eventually we were able to find another group home where Kelly currently lives. But it was a very difficult time.

The proposed legislation would provide group home residents and their guardians the opportunity to appeal a decision to close a group home. The bill would further require group home operators to work with affected residents and their families to find a suitable, alternative placement. The bill also requires DHS to become involved in the process of finding suitable, alternative housing for affected developmentally disabled adults at the request of the family.

In the past several years, we have seen major providers close their group homes, including Lutheran Social Services and Bethesda. Many group home residents who are disabled exhibit behavioral problems or are medically fragile creating significant challenges to find alternative housing. I grew up with two siblings with Down Syndrome. I am an attorney and have worked with many families with children with cognitive disabilities, many of whom live in group homes. I have volunteered for many years with Life Navigators, a tremendous agency devoted to working with individuals with developmental disabilities. There are so many vulnerable individuals who are at risk. This bill is designed to protect them.

This bill simply provides group home residents with the same rights as those individuals living in nursing homes or assisted living facilities when those facilities close. Surrounding states afford group home residents who are similarly affected with the same or similar rights as proposed in this bill.

Thank you for your time and consideration of this important legislation.



DISABILITY
SERVICE PROVIDER
NETWORK

DATE: February 6, 2024

TO: Members of the Wisconsin State Senate Committee on Health

RE: Senate Bill 919

FROM: Lisa Davidson, CEO



Madam Chair and members of the committee, thank you for the opportunity to speak today for information only on Senate Bill 919. DSPN is the state's leading trade association for organizations that provide support to people with disabilities. DSPN represents the interests of disability service providers that provide both residential and non-residential services.

These services include community-based and center-based vocational and day services, supported employment, job development, training and placement, competitive integrated employment, care management, Community Based Residential Facilities (CBRFs), Adult Family Homes (AFHs), supported living arrangements, Adult Day Care Center (ADCC) services, early intervention, and other services that enable people with disabilities and economic disadvantages to live and work in their local communities.

As I am here today for information only, I want to offer myself and DSPN as a resource and partner to you and others working on issues related to long-term care programs. The existing provider network is already fragile, and I am concerned this and other legislative proposals moving forward may have unintended consequences for providers and the individuals they serve.

Closure of any facility is always a last resort. While there are other reasons that may contribute to closure, unfortunately inadequate funding plays a significant role. While outside of the scope of this bill, I must take the opportunity to request that reimbursement to providers is based on the actual costs of services. It is the disparity between the costs of services and what providers are paid, along with additional unfunded mandates, which make it extremely challenging to be a provider in Family Care.

Our members do everything they can to prevent a closure from happening and assist individuals and families when a discharge happens. Several already have practice of more than 30 days' notice. Should these situations arise, continuity of care and effective communication about a transition is a priority when a change is necessary.

Family Care providers are in crisis. Our long-term care workforce needs are at their most critical and capacity to provide services and a high quality of life are at risk unless we take a bi-partisan and comprehensive approach to improve the environment for providers. We request that any new responsibilities for providers are fully funded. We cannot manage further unfunded mandates.

We ask you to carefully consider this and other regulations' impact on our ability to meet current and future needs. Please collaborate with the provider community to improve Family Care. We have members across the state and welcome the opportunity to host you to learn more about the provider experience and work together on solutions.

Thank you for your service and time today. I am happy to be a resource and answer any questions.

WHCA/WiCAL

Wisconsin Health Care Association

Wisconsin Center for Assisted Living

Wisconsin Long-Term Care Providers: Opposed to SB 919

The Wisconsin Health Care Association/Wisconsin Center for Assisted Living (WHCA/WiCAL) represents more than 100 3-4 bed Adult Family Homes (AFHs) within our membership of long-term care providers. AFHs are an integral part of the long-term and post-acute care continuum, and ensuring access to these community-integrated home settings is critical. SB 919 would create an unrealistic and unattainable regulatory requirement for these small providers. Simply put, many if not all AFHs would not be able to meet the requirement laid out in SB 919.

Like other health care settings and other sectors altogether, AFHs are experiencing workforce challenges. AFHs may typically have one to three employees total, so staff turnover for such a small health care setting can be very disruptive and challenging. WHCA/WiCAL's AFH members have told us that more often than not, when an AFH decides to close, it is due to staffing challenges.

Given these small operations and ongoing staffing challenges, it would not be appropriate to place the primary responsibility for a very comprehensive relocation process on the AFH:

AFHs are not equipped with the staff to complete the very detailed, time-intensive work involved in relocating a resident.

Relocation services are comprehensive and exhaustive, designed to ensure that an individual who must be relocated is able to make an informed decision, often with the support and approval of their loved ones, on their new placement based on their needs and preferences. Please see the addended flow chart of this process for more information. WHCA/WiCAL supports residents' access to this process, but small AFH providers simply do not have the ability to carry out these services.

AFHs do not know the budgets or preferences of the Managed Care Organizations (MCOs) who will make the ultimate decision on placing a Family Care resident in a new setting.

The MCO determines the rate they will agree to pay for services to a specific provider, and it differs from provider to provider. An AFH does not have budgeting details of the MCOs with other providers in Wisconsin. Under SB 919, an AFH may spend hours upon hours in relocation planning, completing resident/family conferences, seeking favorable placement, touring alternative placements, and finding an alternative placement for a resident, only for the MCO to determine against the new placement if it does not meet the MCO's preferences and standards.

While we appreciate the bill's reference to MCO and state involvement, the bill appears to place the primary responsibility – and regulatory obligation – on the small provider. This will set these small providers up to fail and will create a system that is not responsive to residents' needs when relocation is needed.

For these reasons, WHCA/WiCAL cannot support SB 919 in its current form. We are happy to continue conversations with the bill authors to discuss these practical concerns.

FOR MORE INFORMATION, CONTACT:

JIM STOA

VP of Government Relations and Regulatory Affairs

Wisconsin Health Care Association

Wisconsin Center for Assisted Living

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RICK ABRAMS

CEO

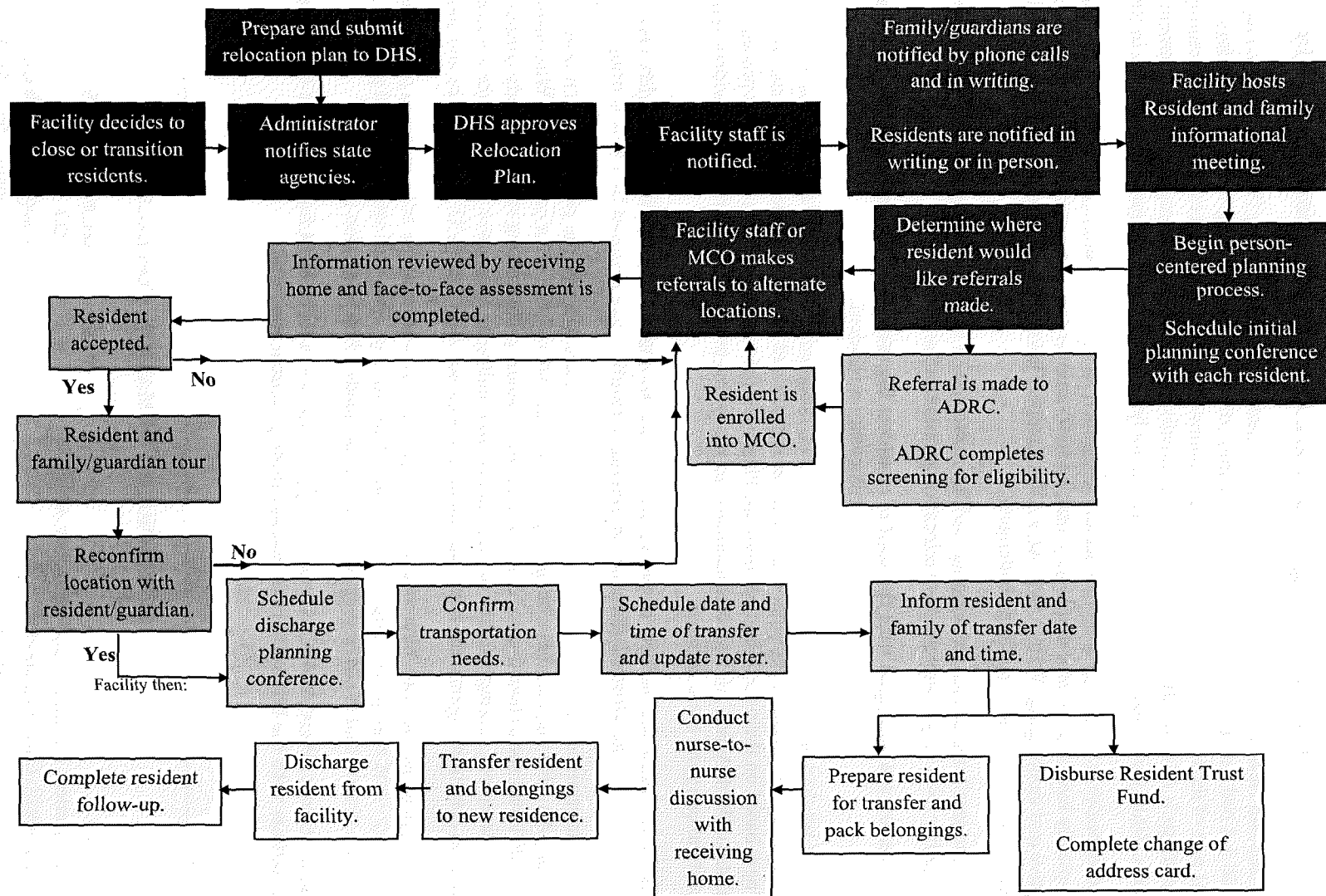
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Section VI: Resident-Centered Relocation Planning Overview

Flowchart for Resident Relocation Process





To: Senator Rachael Cabral-Guevara, Chair
Members of the Senate Committee on Health
From: Michael Pochowski, President & CEO
Date: Tuesday, February 6, 2024
Re: Senate Bill 919

On behalf of the Wisconsin Assisted Living Association (WALA) we have concerns with Senate Bill 919, relating to the closure or change of services and relocation of residents in adult family homes.

There are two (2) types of Adult Family Homes: certified and licensed. Certified Adult Family Homes provide care and services to 1-2 residents and are usually “certified” by a managed care organization (MCO). The MCO ensures the certified Adult Family Home is abiding by all of its contractual requirements.

A Licensed Adult Family Home provides care and services to 3-4 residents as defined under Wis. Stat. 50.01(1) and is overseen by the Department of Health Services (DHS) under Wis. Admin. Code ch. DHS 88.

Both certified and licensed Adult Family Homes are already required to provide 30 days’ written notice of a closure or change of services to its residents through its licensure or certification. Further, an adult family home is required to ensure a resident is safely transferred to another facility in these circumstances. A resident cannot be evicted after the 30th day. Again – there are already administrative protections in place.

Adult Family Homes are almost solely reliant upon Medicaid Waiver programs, including Family Care. When an Adult Family Home is faced with the unfortunate circumstance of having to close its facility, it is most often because of low or inadequate reimbursement from such State administered programs. Or, because it is unable to recruit and retain staff – also due to inadequate reimbursement.

For example, the Family Care estimate in the most recent state budget and provided to the Legislative Fiscal Bureau used \$13.02 as the median direct care worker wage. Whereas the current market is closer to \$17-\$20/hour. Interestingly, the IRIS (Include, Respect, I Self-Direct) program will be assuming \$18.83/hour for caregivers. Medicaid program cost inconsistencies like this have led to strains in provider reimbursement - a situation that has led some providers to exit the Family Care program.

While we certainly appreciate the intent of Senate Bill 919 is to ensure residents are safely placed at a new facility, adult family homes are already required to do so under current administrative rule and as part of their contract with the MCO. Adding more requirements would not enhance efforts to properly place a resident in a new home.

It should be noted, the Department of Health Services (DHS) is currently working on amending DHS Ch.88, Licensed Adult Family Homes. This administrative rule rewrite process may provide a good opportunity for further review and possible changes.

Ultimately, we should focus on solving the real problem of recognizing actual market costs/prices, such as wages, in the Family Care program. Many adult family homes and other residential providers are finding it financially difficult to operate and to recruit \ retain staff for a population that is almost exclusively dependent upon Family Care.



Moving toward accurate market cost assumptions and adequate reimbursement in the Family Care program will reduce the prospect of providers having to leave the program.

Thank you again for allowing us to provide testimony on Senate Bill 919 for your consideration. If you have any questions, please feel free to contact me at (414) 803-7415 or via e-mail at mpochowski@ewala.org. or our lobbyist, Forbes McIntosh.



**Wisconsin
Association of
Health Plans**

From: Tim Lundquist, Senior Director of Government & Public Affairs
Kyle Caudill, Policy Manager

To: Members, Senate Committee on Health

RE: Senate Bill 919

Date: February 6, 2024

The Wisconsin Association of Health Plans is the voice of 14 community-based health plans that serve government programs, employers, and individuals across the state in a variety of health insurance markets. Association members serve as key state partners in Wisconsin's Medical Assistance program by providing access to acute and primary care services through the BadgerCare Plus and SSI programs and to long-term care services through the Family Care and Family Care Partnership programs. Association member health plans work every day with providers across Wisconsin to ensure that Family Care and Family Care Partnership beneficiaries have access to high quality long-term care services and supports, with a focus on ensuring beneficiaries' quality of life and ability to live as independently as possible.

We appreciate the opportunity to comment on Senate Bill 919, legislation relating to closure or change of services and relocation of residents in adult family homes (AFHs). SB 919 establishes a statutory framework for the relocation of residents of AFHs, largely by placing notice, process, and planning requirements directly on the AFHs themselves. SB 919 also creates certain requirements for the Department of Health Services (DHS), including that the Department must "provide, direct, or arrange for relocation planning, placement, and implementation assistance," offer relocation assistance to residents, and review and approve of an AFH's plan for relocating residents. In addition, SB 919 requires DHS and care management organizations (MCOs) to "participate in the development and implementation of individual relocation plans."

Association member MCOs recognize the goal of SB 919, which is to ensure that AFH residents who are impacted by a facility closure, a change in service level, or a change in reimbursement accepted are supported through their transition to a new residential care setting. However, MCOs have concerns with the bill as currently drafted.

Today, MCOs are obligated via their contract with DHS to satisfy a variety of requirements related to the authorization, provision, arrangement, coordination, and monitoring of services for an enrolled member. This member-centered care management is provided by an interdisciplinary team (IDT), which always includes the member and other people specified by the member, if any. MCOs are required to staff the IDT with, at a minimum, a registered nurse and a social services coordinator.

Per the contract with DHS, an MCO's IDT staff is "formally designated as being primarily responsible for coordinating the member's overall long-term care and health care," as well as arranging for, and instructing members on how to obtain, services. An MCO's IDT staff works with the member on an ongoing basis to develop and implement a care plan. This care plan

takes into account not only the member's preferred outcome, but also the services needed to ensure the member's health and welfare, including medical, long-term care, social, rehabilitation, vocational, and educational services. MCOs establish networks of contracted providers to ensure the services delivered to members are both effective and cost-effective.

MCOs are contractually obligated – including when a member is being involuntarily relocated from a residential care setting, like an AFH – to monitor the member's circumstances and develop “a plan to assure continuity of the member's independence, care, living arrangements, and preferences in the face of changes in circumstances.” When a member must be relocated, an MCO and the residential provider work together, and with the member, to identify another suitable provider within the MCO's contracted network. SB 919 does not account for this existing contractual and operating framework, and largely places the onus on the AFH provider and DHS to relocate an affected resident. Any legislation establishing a statutory framework for relocations from an AFH should, as a first step, reflect the processes and responsibilities that exist today among the various entities involved.

Member MCOs are also concerned with the administrative requirements that SB 919 places on AFHs. Many AFHs, especially those with only 1 or 2 beds, are small, family-run businesses that operate as owner-occupied AFHs. Many operators would likely struggle through the extensive regulatory process contemplated by SB 919, and may not have the staff necessary to fulfill the additional administrative requirements *and* continue providing day-to-day care for residents. The Association is concerned that SB 919 will further burden an already strained system, and AFH providers who are on the verge of exiting the industry may be pushed further toward the edge by additional regulatory requirements. Ultimately, these additional requirements could reduce the number of nearby options members and their families have for residential long-term care services, and negatively impact MCOs' ability to have adequate provider networks.

The Wisconsin Association of Health Plans welcomes further conversation to discuss these issues, and stands ready to work with legislators to address these concerns. If committee members have any questions, please reach out directly to Association Senior Director of Government & Public Affairs Tim Lundquist at tim@wihealthplans.org or via telephone at 608-255-8599.



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Senate Committee on Health

FROM: HJ Waukau, Legislative Director

DATE: February 6, 2024

RE: SB 919 relating to: Closure or change of services and relocation of residents in adult family homes

The Wisconsin Department of Health Services (DHS) would like to submit written testimony for information only for Senate Bill 919 (SB 919) regarding the closure and change of services and relocation of adult family home (AFH) residents. SB 919 requires DHS to establish procedures for AFHs to follow when a licensed or certified AFH closes, intends to close, or changes the level or types of services it will accept for reimbursement. Under SB 919 an AFH must provide to each resident, their guardian (if any), and a member of the resident's family who is not the resident's guardian (if any), written notification of closure or a change in the type or level of service or means of reimbursement accepted at least 30 days prior to the closure or change. The AFH must also provide a statement setting forth the reason for the change; statement that the resident or their legal representative may participate in a planning conference; a statement that the resident or their legal representative may request relocation assistance from DHS and the name, address, and telephone number of the regional office of the Board of Aging and Long-term Care's ombudsman's program. Residents may also request a hearing within 30 days of notice regarding the AFHs compliance under the bill. The AFH must also notify DHS of its intention to close or change its service type or level; and DHS must provide, direct, or arrange for relocation planning, placement, and implementation assistance.

There are two types of AFHs overseen by DHS. 1-2 bed AFHs are certified under Wis. Stat. 50.032, and 3-4 bed AFHs are licensed under Wis. Stat. 50.033. Both types of AFHs are impacted by the provisions of SB 919. Regardless of the type of AFH under SB 919, DHS would be required to: direct or arrange for relocation planning, placement and implementation assistance; participate in the development and implementation of individual relocation plans; review and approve facility relocation plans; and hear appeals from residents regarding the relocation within 10 days of their request. If the resident prevails, DHS is required to provide assistance to the resident to secure alternate placement. In an emergency, DHS may make emergency placements.

Some of the provisions of SB 919, specifically the requirements for relocation planning are redundant for existing processes within DHS, especially for 1-2 AFH settings, though appropriate in the context of the bill. Additionally, SB 919 does not address how DHS shall direct or arrange for relocation planning. Regardless, the parameters of SB 919 would have massive impact on workloads for DHS staff and require additional staffing. SB 919 does not provide DHS with new resources to implement the parameters of the bill and its anticipated increase in workload.

DHS thanks the Committee for the opportunity to provide written testimony for information only and offers itself as a resource for the Committee.