AARP and consumer advocates claimed victory this session after coming to consensus with the long-term care industry on a bill to prevent elder abuse. After first learning of the number of horrific cases of abuse several years ago, Minnesota lawmakers stood up for older and vulnerable adults and passed far reaching legislation designed to protect and deter abuse. The bipartisan bill (HF 90/SF 8), authored by Rep. Jennifer Schultz of Duluth and Sen. Karin Housley of St. Mary’s Point, establishes licensure of assisted living facilities and strengthens the rights of older and vulnerable adults.

While AARP did not win everything we fought for, the final legislation signed by Governor Walz on Wednesday, May 22 provides both interim protections before licensure is implemented and strong assisted living (AL) licensure requirements, with dementia care standards. Specific provisions include:

ASSISTED LIVING LICENSURE

Two Licensure Levels (Effective August 2021)
The bill establishes two levels of licensure: Assisted Living Facilities and Assisted Living Facilities with Dementia Care. Each licensure level sets minimum standards around safety, staffing, and training requirements, including protections for people with dementia. Administrators must be trained and certified. Inspections of assisted living facilities will be conducted every other year, rather than the current three-year schedule. Effective August 2021.

CONSUMER PROTECTIONS

Protections against Arbitrary Termination (Starting now)
The Department of Health must immediately work to prioritize and help prevent harmful discharges for two years prior to licensure. The department will develop guidance for providers on what constitutes a coordinated transfer and how to prevent unsafe and inappropriate discharges.

Robust Termination and Appeals Rights (Starting 2021)
The bill establishes strong protections against arbitrary discharges and establishes due process appeal rights for residents. The new law identifies permissible reasons for discharges and prevents discharges to unsafe locations. The bill requires that every effort is made to prevent the discharge in the first place. If a move is necessary, the bill puts requirements in place to make sure the process of relocation is minimally disruptive to the care and well-being of the resident.
Retaliation prohibited (Effective Immediately)
Residents are protected from retaliatory acts like discharge, discrimination of any kind, restricting family or visitor access, punishment, or restriction of rights. Under this bill, residents will be protected from retaliation if they speak up and take action to advocate on their own behalf.

The right to place a camera to monitor care (Effective Jan 2020)
The bill provides the right for residents to place a camera in both nursing homes and assisted living facilities. Residents will be allowed to place a camera for 14 days without notice to facility if one fears retaliation.

Deceptive Marketing Prohibited and Mandatory Arbitration Clauses must be disclosed (Effective Immediately)

Clearly defines daily safety checks in independent living contracts, or “I’m OK” checks Effective 2021)
Independent living facilities offering daily safety checks, or “I’m OK” checks, must clearly define what the nature of this service is when the initial contract is signed. The bill allows residents to sue for breach of contract if the facility fails to provide the service as described.

STRENGTHENING THE OMBUDSMAN’S OFFICE

Funding for 17 new staff positions at the Office of Long Term Care Ombudsman
The Ombudsman’s office provides advocacy services to older Minnesotans in nursing homes, assisted living facilities, and those receiving home care services.

Thank you to all of the lawmakers who supported HF 90/SF 8. This bill brings Minnesota closer to making sure Minnesota’s older and vulnerable adults are free from abuse and neglect.

To learn more about AARP’s advocacy work or join our grassroots volunteer team, please contact Erin Parrish at eparrish@aarp.org or 651-726-5644.