TESTIMONY BEFORE THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE

House Bill 557: Electronic Monitoring (Vera's Law)

POSITION: OPPOSE

In General

LifeSpan Network opposes House Bill 557, which would require a nursing home or assisted living facility to allow a resident or, if the resident is incapacitated, the legal representative of the resident to monitor the resident through the use of electronic monitoring devices. While LifeSpan understands that the intent of this legislation may be to increase quality of care for residents, electronic monitoring is not a substitute for direct patient care.

LifeSpan believes that, in order to achieve the goals of increasing quality of care, the State must refocus its efforts on adequate funding of provider reimbursement and enforcement efforts. Suggestions include supporting the enforcement efforts of the Office of Health Care Quality and the State's Long-Term Care Ombudsman Program, funding other technology efforts being employed in facilities, such as bed and chair alarms, low-rise beds, wireless call systems, providing incentives to providers through the reimbursement system and funding additional training for direct care staff on abuse and neglect and stress management.

Need to Refocus State Efforts to Increase Quality of Care in Nursing Homes

During the 2000 Session, the General Assembly passed and the Governor signed a package of bills intended to increase quality of care in nursing homes. The bills provided additional funding for the hiring of nursing staff, required implementation of quality assurance activities, created a Health Care Quality Account and increased penalties for certain types of deficiencies. The FY2001 budget also included an additional 27 surveyors for the Office of Health Care Quality.

Unfortunately, since that time, the State has significantly reduced nursing home reimbursement rates and funds for enforcement and oversight activities. Both actions have a detrimental effect on quality of care.

- The FY09 and the proposed FY2010 budgets reduce nursing home rates by an **unprecedented $158 million**, which includes direct cuts to the reimbursement system plus the lose of an inflationary adjustment in FY2010. Delays in medical assistance eligibility determinations exacerbate these reductions and cause additional cash flow issues for nursing homes.

- The Office of Health Care Quality is **deficient 83 surveyors**, with the most pronounced deficits occurring in the Long-Term Care Unit, Developmental Disabilities Unit and the Ambulatory Care Unit. Survey shortfalls prevent OHCQ from fulfilling its State and federally required survey and inspection requirements. As of December 31, 2008, OHCQ had 14.8 vacant positions, of which 7.8 positions perform survey and inspection activities. Section 18 of the budget bill indicates that 200 vacant positions will be eliminated from DHMH. Consequently, it is a strong possibility that OHCQ staffing issues will be exacerbated in the near future. The Department of Legislative Services has recommended budget language that would prohibit the abolishment of positions engaged in survey and inspection activities. LifeSpan and the Alzheimer's Association support this language and have requested that support staff also be included in this language.
- The Long-Term Care Ombudsman Program is inadequately funded. Several counties do not have a dedicated person for the program and other counties must share one staff person.
- It is our understanding that the Health Care Quality Account, funded by penalties paid by nursing homes and designed to be used for training, grants awards, demonstration project or other purposes to improve quality of care, has been depleted to balance the General Fund.

With regard to OHCQ, it is important to note that both nursing homes and assisted living facilities received significant licensure fee increases over the last two years.[1] However, because OHCQ is not a special fund agency, this increase simply goes into the general fund and does not benefit OHCQ, the providers or the resident's they serve.

It is important to note that, despite the lack of funding to providers and to the enforcement agencies, nursing homes have done their best to maintain quality standards for their residents. <u>In the 2007 Maryland Nursing Home Family Satisfaction Survey, 88% of individuals reported that they would recommend the nursing home to another individual</u>. Providers have also developed their own quality of care initiatives, such as the national *Advancing Excellence Campaign*. As part of this campaign, key indicators are monitored (both clinical quality and organizational improvement goals) and training and resources are provided to nursing homes on achieving these goals.

<u>In Conclusion</u>

LifeSpan opposes HB557. If the intent of this legislation and other legislation is to increase quality of care for nursing home residents, then the State needs to partner with the industry and refocus its efforts on appropriately funding nursing home reimbursement rates and supporting the enforcement and oversight efforts of State agencies. Without both, additional initiatives will not

[1] Nursing home licensure went from $6/bed to a flat rated based on facility bed size. The flat rate is based on a two-year license: 1-50 beds: $3,000; 51-99 beds: $5,000; 100+ beds: $7,000; and transitional care units: $600. A nursing home with 50 beds that used to pay $300/year now pays $1500/year – a 300% increase. A nursing home with 51 beds (currently pays $306/year) is now required to pay $2500 – an 800% increase.

have the broad and lasting effect of increasing and/or maintaining quality of care for the greatest number of nursing home residents. Therefore, LifeSpan urges an unfavorable report of HB557.

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LifeSpan Network is a senior care provider association representing approximately 300 providers, including nursing homes, assisted living facilities, medical adult day care providers, continuing care retirement communities and senior housing communities. Our members provide care to approximately 45,000 seniors.

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