



INDEPENDENCE
INCLUSION
INNOVATION

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TO: Senator Mike O'Donnell, Chair and Members
Senate Committee on Public Health and Welfare

FR: Tom Laing, Executive Director, InterHab

RE: Recommendations on Senate Bill 422

Thank you, members of the committee, for this chance to testify on Senate Bill 422 and offer suggestions for improving the bill.

We met with KDADS staff once since last year, to review concerns and questions which had arisen from the first version of this bill (HB 2315), and we received an early draft of this bill, as well as some explanations in response to our concerns. We appreciate the work the Department has undertaken to develop this bill, but we do have some remaining concerns. We support the underlying intent of the bill to clarify the Department's statutory responsibilities, and appear today only to highlight our remaining concerns, in hopes that the Committee will join us in seeking further clarity for those in the community whose services and whose work will be affected.

Protect the rights of persons to receive services in their homes without intrusive and unnecessary State presence.

As the bill is currently written, the Department is authorized to have an unimpeded right to enter the private residential premises of any person receiving services. We believe that the Department is claiming a right that is overly broad and intrusive; especially considering that home and community based services are often provided in a person's private home, or in the home of that person's family.

We raised this issue with the Department, and were advised that such a matter could be addressed in regulation, and did not need to be addressed in statute; however, we believe State statutes should reflect the current service model which is often home-based, not facility-based.

Persons and families should not have their privacy compromised. We believe the Department believes in the same principle and therefore we do not consider this suggestion to be controversial.

We recommend this be addressed in the definitions in Section 1, merely by making it clear that the category of “facility” does not include private residences owned or rented by a person served or that person’s family.

We further recommend that Section 11, regarding inspections, should be clarified that unless there is showing of cause relating to a threat of imminent risk to health or safety of the person served, the State should not have the right to inspect at any time, on any day, merely by arriving and showing proof of a State employee’s identification and authorization.

Seniors, persons with disabilities, and others who are vulnerable and are sometimes preyed upon are increasingly well informed and vigilant about such potential risks; they are therefore not receptive to strangers appearing at their door, who claim to be there in an official or otherwise “legitimate” capacity. The assistance of friends, family, or direct care staff in almost all cases can alleviate the fears that can be caused by such unannounced visits. Therefore, coordination of scheduling is advisable.

We want the State to retain its authority to intervene when needed to protect a person’s health and safety, if such intervention is warranted, and we see no loss of appropriate State authority by requiring the State to schedule appointments to conduct routine business.

Finally, be advised that we and the State are preparing for compliance with new Federal guidelines which are intended to assure that States and providers of service have laws, rules and politics which make home and community based services free from the issues we have identified above.

The Federal issue, with which we and we believe the State agrees, is this:

Statutes, rules and policies should not be created which make a person’s freedoms less than our own freedoms simply because they receive assistance for their disability.

In our view, there should be no law or rule which grants an unimpeded right to the State to intrude without cause upon a person’s privacy in their own home.