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In reply, please refer to:
File:

LATE TESTIMONY

House Committee on Judiciary

HB 2776, HD 1, Relating to Liability Insurance

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

Thursday, February 9, 2012

1 **Department's Position:** The department appreciates the intent of this bill but OPPOSES the bill as
2 written.

3 **Fiscal Implications:** The cost to acquire the actuarial and underwriting expertise to determine a variety
4 of sufficient coverage amounts for a variety of circumstances are likely to be very high. The department
5 is unable to afford this cost.

6 **Purpose and Justification:** This bill will require operators of ARCHs, Expanded ARCHs, and Assisted
7 Living Facilities to obtain and maintain liability insurance at levels to be determined by the director of
8 health. The bill will also require adult foster home operators to have liability insurance. However, DHS
9 testified in OPPOSITION to the bill since their admin rules already require foster homes to have liability
10 insurance and the DHS health plans require liability insurance before they place residents in the adult
11 foster homes.

12 Prudent business practices and the protection afforded to operators and clients by having liability
13 insurance are key reasons to have this insurance, and many care home and assisted living operators have
14 told us during the course of conversation that they have insurance. As a result, this mandate may be
15 unnecessary. In addition, this bill would require the director of health to determine sufficient insurance

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1 coverage amounts. However, determining the amount of insurance necessary for the operation of a
2 healthcare facility and the cost of the insurance is a complicated matter. The department does not
3 currently possess the professional actuarial or underwriting expertise to determine the various coverage
4 amounts that would be sufficient for healthcare operators depending on their individual circumstances.
5 The cost of \$1,000,000 general liability/professional liability insurance coverage could range between
6 \$2,400 - \$250,000 per year depending on the number of beds in the facility, the acuity level of residents,
7 prior claims history, and other actuarial and underwriting factors. Higher insurance coverage would cost
8 more. The department cannot undertake to determine sufficient coverage nor its associated annual costs.

9 However, the department is confident it can accomplish the intent through other means. For
10 example, the department can highly recommend or educate licensees on liability insurance coverage or
11 if necessary, the department can assess the need to address this problem through rule making. This may
12 be the better next step.

13 Thank you for the opportunity to testify.