Chairwoman Jehlen, Chairwoman Garlick, Members of the Joint Committee on Elder Affairs, and staff, thank you for the opportunity to offer comments on behalf of the Home Care Alliance of Massachusetts in regards to S.2139, An Act providing limited health services for residents of assisted living residences.

The Home Care Alliance (HCAM) is a trade association of 200 home care agencies that are both Medicare-certified – authorized to provide medical services for reimbursement from Medicare and MassHealth – and that provide privately paid supportive services. These agencies collectively offer a wide range of services from assistance with Activities of Daily Living (ADL) to skilled nursing, behavioral health, home telemonitoring, and physical therapy.

Many of our member agencies provide services in Assisted Living Facilities and offer residents options for both medical and non-medical care. Additionally, a portion of our member agencies are affiliated with companies that also own and manage assisted living operations. As such, we have partnered with Mass-ALFA on a number of issues to address patient choice for residents of ALFs and to address fraud and abuse concerns.

Moreover, the Home Care Alliance commented on 651 CMR 12.00 relative to Certification Procedures and Standards for Assisted Living Residences in 2014 and much of our comments were supportive of the idea that a unit within an ALF constitutes a private residence. Given that premise, the HCA opposed proposed regulations that restricted “skilled nursing care” to no more than 90 consecutive days. Our comments argued that a person living in their private home, no matter what the physical structure looks like, should be able to access home health care services for as long as is necessary and appropriate. A change was made to that end as many other organizations made similar comments.

The Home Care Alliance raises this particular point because ALF residents already have access to a full range of supportive and skilled services provided by home health agencies. The Alliance is unaware of any issues of ALF residents in terms of accessing care so the change appears unnecessary as proposed.

The Alliance remains concerned from a number of standpoints, including the following:

- The services listed in the legislation are those covered under the Medicare or MassHealth home health benefit. ALFs are not certified to bill for these services.
• Allowing ALFs to provide “limited health services” could force residents to pay out-of-pocket for services provided by the ALF that would be covered by their insurance if provided by their home health agency.

• Allowing nurses in ALFs to administer “limited health services” interrupts patient choice. If an ALF resident has been receiving services under either a medical home health agency or private-pay home care agency, they would not be able to continue services with a trusted and high-quality provider.

• “Skilled observation” needs to be further defined in terms of the personnel carrying out this task. The HCA is also concerned about who would be managing these interventions highlighted under “limited health services.”

• “Pulmonary edema,” which is listed as a sample condition in the bill where skilled observation is employed, is an intensive care diagnosis and is not “limited” in any way. In fact, it is often a life-threatening situation requiring a physician-led care team.

• Allowing ALFs to provide “limited health services” would greatly expand their role in the healthcare system. The HCA believes that this change would necessitate moving ALFs from oversight by the Executive Office of Elder Affairs and to the Department of Public Health, which would involve a higher level of licensure and oversight, including personnel qualifications and billing infrastructure.

Lastly, the Home Care Alliance has pushed for two policy changes for years that are related to S.2139 and that we believe would represent broader improvements for addressing issues raised. These policies include allowing home health care nurses to delegate certain medication administration to certified home health aides (H.4067, An Act Relative to Home Health and Hospice Aides) and also establishing state oversight for both medical and non-medical home care agencies (pending item in state budget process). Permitting home health nurses to delegate certain medication-related tasks to a home health aide is a change in nursing practice that would benefit assisted living residents and the facilities in which they reside. Likewise, home health agency licensure ensures consumer protections through enforcement of minimum standards.

We appreciate this committee’s consideration of our position. Please feel free to contact me (jfuccione@thinkhomecare.org, 617-482-8830) should you have any questions or would like further details on our comments.

Thank you,

James Fuccione
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Home Care Alliance of Massachusetts