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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

DIVISION OF QUALITY ASSURANCE

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SENATE PUBLIC HEALTH, WELFARE & SAFETY
EXHIBIT NO. 4
DATE 4-1-05
BILL NO. HB 704

Testimony of the Department of Public Health and Human Services
Before the Senate Public Health, Welfare, and Safety Committee
April 1, 2005

RE: HB 704 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING TIMEFRAMES FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR DECISIONS ON SURVEYS AND INFORMAL DISPUTE RESOLUTION FOR LONG-TERM CARE FACILITIES; AMENDING SECTION 53-6-109, MCA; AND PROVIDING AN EFFECTIVE DATE."

The Quality Assurance Division of the Department of Public Health and Human Services has responsibility for both the Informal Dispute Resolution (or IDR) and the Medicare/Medicaid survey and certification process that are addressed in HB 704. I rise today in opposition to this bill. When this bill was introduced and heard in the House, I testified for the Department as an "informational" witness because conceptually I support the timeframes that are outlined in this bill. We are unable to meet these time frames, however, without additional resources. The House Appropriations Committee added New Section 2 on page 3 that requires that the requirements of HB 704 be performed within existing levels of funding. Thus, the Department now opposes this bill.

I wanted you to have a clearer idea about the areas addressed in HB 704, so I have prepared two handouts. The white handout is a copy of an Informal Dispute Resolution hearing decision. (The IDR timeframes are outlined on **page 2, lines 2-4** of the bill.) An Informal Dispute Resolution hearing can be requested by a nursing facility if they disagree with survey and certification findings made by the Department. A hearing officer who is independent of the survey process conducts the hearing. These hearings can be quite complex and often involve multiple issues that must be decided. Each issue may require research into federal and state regulations, nursing home industry standards, and medical standards of practice.

The second handout, on colored paper, is the actual survey form, which is called a 2567. (The survey form timeframes are outlined on **page 2, lines 12-14** of the bill.) The 2567 timeframes are the same as those already required in federal regulations. The 2567 contains the information about any deficient practices that were found when the Department performed an on-site inspection of the nursing facility. This form must be posted at the nursing facility and be available for public review. The federal government also publishes results of the survey on a nationally available web page. Thus, accuracy is critical to both providers and the Department.

I must ask you to vote no on HB 704. The Department cannot meet the mandated time frames without further staff. If this bill is passed, it will both set the Department up to fail and will likely open the door to lawsuits against the state. I don't say that lightly, we have already had a court case involving the IDR process. I will be available to answer any questions that you might have.

Respectfully submitted,

Mary E. Dalton

Mary E. Dalton, Administrator
Quality Assurance Division