

Before the Committee on Health and Human Services
Testimony on
2004 H. B. 2658

Date: February 17, 2004

By: L. Guen Easley, Assistant Attorney General
Office of the State Fire Marshal

The Office of the State Fire Marshal stands in opposition to 2004 House Bill No. 2658 for the following reasons:

1. The Center for Medicare and Medicaid Services (CMS) sets the standards which the State Fire Marshal uses to determine compliance with fire safety. We must adhere to federal statutory and regulatory requirements and to the State Operations Manual (SOM). Federal regulations, specifically, 42 C.F.R. § 488.331, provides for an informal dispute resolution (IDR) wherein the facility has an opportunity to refute the survey findings. We provide a face to face meeting upon request of a facility. Recommendations from an IDR are not binding on CMS and cannot impede or delay any enforcement proceedings. See attached Memorandum dated June 12, 2003 from the Director, Survey and Certification Group, to Survey and Certification Regional Office Management State Survey Agency Directors.
2. The Independent Review Panel provided for in the Bill appoints a physician and the other two members are to have appropriate knowledge or expertise, but neither of the two members may be employees of the department of aging or any other agency that did the inspection. Federal inspections are conducted by fire inspectors with training and expertise in the complicated web of statutory and regulatory requirements. A person who is knowledgeable about fire safety would not be able to determine how and why a specific standard is breached and results in a deficiency and may cause a federal facility to question other fire safety issues not in dispute.
3. The costs incurred in establishing another panel of review are not cost-effective in an already tight budget.

Thank you for your consideration.