October 13, 2021

913 Thomas Rd.
Columbus, OH 43212-3718

Ohio House of Representatives
134th General Assembly
77 South High Street
Columbus, OH 43215

Dear Members of the Families, Aging, & Human Services Committee,

I am writing to express my support to enact HB 78 **Esther's Law RE: long-term care room monitoring.** The proposed bill is of particular interest to me as I believe my mother (Loretta F. Gerber; DOB 2/1/1938) recently experienced a premature death (July 6, 2021) and suspect it was due to professional negligence/malpractice at the Commons of Providence Specialized Assisted Living facility, Sandusky, OH.

My 90-year-old father, Marvin J. Gerber, Sr., was my mother's primary durable power of attorney for health care. My mother (83) was also afflicted by dementia and had a history of falls. My mother was admitted to the above ALF during the evening of June 4, 2021. My father signed a consent to permit video surveillance of my mother to monitor her activities to determine if there were movements that may contribute to her risk for falling so that her plan of care could be updated/revised accordingly to promote her safety. This consent was provided by the ALF and signed on June 2, 2021, during their assessment/evaluation at my parents' residence to determine if my mother would be a candidate for admission to the ALF and if the facility's personnel could meet my mother's personal and health care needs.

I received a text message on my personal cell phone from the ALF at 8:16 a.m. EST on June 29, 2021, which reads "… Just wanted to update you on your mom if you can call back when you receive this. Thanks". I was informed during a phone conversation at 8:22 a.m. with Laura the day shift LPN that my "mother had been involved in an altercation with another resident at 6:05 a.m." and a scuffle ensued wherein the other resident moved my mother's walker and my mother "fell on her butt". To this day, my father, my adult siblings, and myself do not know where this supposed fall occurred in the ALF, how many people it took to get my mother up from the position she was found (I was told during a phone conversation on July 1, 2021 by the facility's medical director, Richard R. Keller, M.D., who was also my mother's attending physician, that my mother's fall was not witnessed and "the STNA on night shift heard an escalation of voices"), and how she was moved from point A (assuming the fall did not occur in her apartment) to point B, suite #101 my mother's room in the St. Clare section of this memory care facility.

My father and I arrived at the ALF at approximately 9:00 a.m. on June 29, 2021, and I observed that my mother was in significant respiratory distress with a paradoxical

breathing pattern. Nursing personnel did not accompany my father and I to my mother's apartment and they also were not forthcoming upon our entering my mother's apartment. I am a licensed professional registered nurse of 39 years in the State of Ohio and have had my Master of Science in Nursing degree since 1991. My mother was in shock: her color was extremely pale, her skin was clammy, and it was previously reported during the earlier phone call that her pulse oxygenation/oxygen saturation was 85% on room air and that the LPN had started her on 2 liters of oxygen. My mother's pulse ox was 97% on room air the previous day.

After stalling by the nursing personnel, my mother was eventually transported by Sandusky EMS to Firelands Regional Medical Center (Sandusky, OH) Emergency Department for medical evaluation and treatment before 10:00 a.m. Diagnostic workup confirmed that my mother sustained at least four fractured ribs in her left posterior thorax and that one of the ribs was fractured in two places which most likely contributed to the development of a traumatic left pneumothorax (collapsed lung) with at least a 50% reduction in lung expansion. Despite my mother's history of dementia, my mother was not terminally ill. I have prior experience being a hospice case manager and was responsible for caring for several persons who had end-stage Alzheimer's disease and saw firsthand the decline in their conditions wherein they lost control of bodily functions and required total care prior to their death. My mother was not at this point in the trajectory of this devastating affliction.

My mother's condition continued to deteriorate, and my mother succumbed to her injuries at 11:15 p.m. EST on July 6, 2021— one week after she supposedly had fell on her butt. I asked the pulmonologist who was managing my mother's thoracotomy (chest) tube and closed bedside chest drainage system which was connected to continuous low wall suction to promote expansion of her collapsed lung if the injuries my mother sustained in his professional medical opinion were consistent with someone who had fallen on their butt and he expressed "no, your mother was the victim of blunt force trauma".

To gain access to the residential section of this ALF one must enter an access code. There was a sign posted indicating that video recording was in use to the right of the keypad. Before my mother's death, I sent an email to the LNHA requesting to obtain a copy of the video recording of the event involving my mother. I have been informed by an email from the LNHA that my mother does not appear in any video footage and even if she did any video recording is for quality assurance purposes and for internal use only.

I have filed a complaint with the Ohio Department of Health. I have filed a complaint with the Ombudsman assigned to this facility. I have reported Laura the LPN to the Ohio Board of Nursing. I have filed a complaint with the Ohio Attorney General's office. I want to file a complaint about the STNA refusing to call 911 despite the fact I told her upon entering my mother's apartment that I wanted my mother sent out for medical evaluation.

Laurie, the Ombudsman, has attempted to obtain a copy of any video recording of my mother's fall and has been told that the event occurred in the facility where there is a "dead spot" and hence there is no video record. If one has a contractual obligation to provide a safe environment for residents entrusted to their care, would the health care facility not have a legal obligation to correct any known problems with any video recording issues if in fact there is an area in an ALF where there was a known problem with video recording capability?

I have been a Program Coordinator and a Primary Instructor approved by the Ohio Department of Health to teach in Nurse Aide Training and Competency Evaluation Programs. I also have spent the majority of my professional nursing career being a nurse educator. I am writing in support of this proposed legislation. I know firsthand what Esther's family has experienced as I am seeking justice for my mother's premature death and believe it is imperative that we be proactive in advocating for the at risk and vulnerable population to ensure that they receive the quality care they deserve in living the remainder of one's life. As of the time I am writing this, we still do not have answers, and this is extremely frustrating and very discouraging. It will not bring my mother back.

There has been evasiveness and concealment. There is deception; my mother's electronic medical record has been altered. The executive director of this facility has had the audacity to tell Laurie, the Ombudsman that my mother experienced a 'simple fall'; my recent internet search indicates there is no such classification of falls. It is abhorrent and appalling that this administrator can be so callus about my mother's situation.

I realize the proposed bill addresses long-term care facilities; however, I implore you to please consider modifying this legislation to include the ability to also allow video recording in residential care facilities (assisted living facilities, group homes, etc.). My father was paying $225/day for my mother's care at this facility. We deserve answers.

Going forward, the number of elderly persons is only going to continue to increase and the likelihood of a portion of them needing to be cared for outside of their personal residence is also going to be higher along with more persons being diagnosed with dementia or some other type of cognitive impairment which has inherent vulnerability in and of itself. It is imperative that we hold personnel at these health care facilities responsible and accountable for their acts of commission and or omission. One way to accomplish this objective is to permit a resident's sponsor or designee to have the tools necessary to pursue legal recourse on behalf of their loved one. Enacting legislation to permit video recording in Ohio is one means of being able to achieve this goal.

I may be contacted at mobile device 614-202-0561 or email: c.myerholtz@hotmail.com

Lastly, I am requesting that my letter to be considered for public testimony and read to the committee members for inclusion in the record in support of the proposed legislation which is unfortunately long overdue.

Respectfully,

Catherine Myerholtz
Deceased’s daughter