

Chair Gelser, Vice Chair Olsen, and members of this committee, my name is Colm Willis and I am here at the request of Oregon Right to Life to express concerns about Senate Bill 239.

As currently written, Senate Bill 239 would allow a residential care facility or an adult foster home to obtain consent to limit a resident's right to "Access food, freely and with support, at any time." This consent may be obtained from a descending list of surrogate decision makers, which includes a committee of people not related to, nor appointed by, the resident.

We believe this language is vague and is insufficient to protect vulnerable residents from potential abuse. Additionally, because the bill would protect the surrogate decision makers and care facility from facing any civil, criminal, or professional penalties for obtaining this consent, we would ask that the language be amended to make it very clear that this bill would not allow a care facility to obtain consent to starve or dehydrate a resident to death.

We recommend an amendment to section 2 of this bill that would read:

Section 2 (11):

(a) Notwithstanding paragraph (1) of this section, a residential care facility including but not limited to an assisted living facility, may not obtain a decision regarding consent under this section to limit a resident's right to the usual and typical provision of nutrition and hydration that is necessary to ensure that a resident does not suffer a substantial and irreversible physical impairment of a major bodily function.

(b) Notwithstanding paragraph (1) of this section, a residential care facility including but not limited to an assisted living facility, may not obtain a decision regarding consent under this section to limit a resident's right to assistance with eating, such as the provision of nutrition and hydration by cup, hand, bottle, drinking straw or eating utensil.

We also recommend an amendment to section 4 of this bill that would read:

Section 4 (11):

(a) Notwithstanding paragraph (1) of this section, an adult foster home may not obtain a decision regarding consent under this section to limit a resident's right to the usual and typical provision of nutrition and hydration that is necessary to ensure that a resident does not suffer a substantial and irreversible physical impairment of a major bodily function.

(b) Notwithstanding paragraph (1) of this section, an adult foster home may not obtain a decision regarding consent under this section to limit a resident's right to assistance with eating, such as the provision of nutrition and hydration by cup, hand, bottle, drinking straw or eating utensil.

Finally we recommend amending the definition of "individually based limitation" in section 2 and section 4 to more closely follow the federal regulations in 42 CFR 441.301; 42 CFR 441.530; 42 CFR 441.710.

We respect very much the good work that many of the proponents of this bill do. However we believe that if the bill is enacted as written it could have very severe unintended consequences that could endanger the lives of vulnerable people in our communities. We respectfully ask that this bill be amended to clarify that residential care facilities and adult foster homes may not obtain third party consent to deny food and water to a resident in order to cause a resident's death, and we also ask that the language regarding individually based limitations be amended to bring it closer to federal law.

Thank you.

