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Testimony of Arthur Towers  
In Support of House Bill 2600  
House Committee on Health Care  
January 31, 2019

Thank you for the opportunity to offer this testimony today. Ms. Schmidt's family has granted permission to share her story.

## **The Tragedy of Beulah Schmidt**

*Beulah Schmidt was the kind of woman who could do everything. She was an excellent baker and cook. She was amazing at needlepoint and quilting. She made all of her daughter's clothes. Beulah worked as an office assistant for a physician. When she retired, she focused on playing bridge, antiques, socializing with friends, and visiting with family. Beulah was a mother, a grandmother, and a great-grandmother before her death.*

Ms. Schmidt was admitted to Southtowne Care Center in Eugene in May of 2015, after suffering a stroke. This facility was operated by Ageia Corp, owner seven long-term care facilities, and operator of additional facilities owned by other companies. When she was admitted, Ms. Schmidt was identified as at risk for weight loss, dehydration, skin injuries and falls. She also had dementia. The staff was instructed to feed and hydrate her, to weigh her weekly, and to follow a fall prevention plan.

In October, 2015, Ms. Schmidt contracted scabies. Scabies is a painful and highly contagious disease. It is caused when a mite burrows underneath your skin and lays eggs. This causes blisters, sores, and extreme itching. By December the itching was so severe for Ms. Schmidt that she ripped her adult diapers to shreds. She also developed severe fungal growth underneath her fingernails, another sign of scabies. The facility placed Ms. Schmidt in a "onesie" so that she could no longer access the most painful areas of her body.

Scabies is highly contagious by close contact. Entire contact groups need to be treated with prescription medicine, bedding needs to be disinfected, and hygiene must be prioritized. Residents at Southtowne experienced repeated scabies outbreaks from early 2014 through April, 2017. Ms. Schmidt's family was not notified of the previous outbreaks when she was admitted.

Southtowne/Ageia ordered the prescription medicine needed to treat scabies. However, they illegally diverted the medicine from patients to infected staff instead.

Ms. Schmidt continued to lose weight, suffered a stage II pressure sore, and had multiple falls.

- The corporation never had Beulah assessed by a nutritionist nor a dietician. Instead of feeding her Ensure, a product designed to keep Beulah's weight up. Instead they fed her the "house shake" comprised of Crisco, flour, chocolate pudding and protein powder.
- The corporation sent infected workers back into the facility, which re-infected patients or exposed them to the probability of super-infection.
- The corporation failed to report the scabies outbreaks to DHS or the local health department, and misrepresented facts to state investigators.
- When Beulah's family was choosing a facility in which to place their mother and grandmother, the corporation chose not to disclose that there had already been a series of scabies outbreaks.
- They failed to notify the family about how serious her condition had become in the summer of 2016. By the summer of 2016, Beulah had scabies over large portions of her body, and her weight was down to 90 pounds.
- The corporation falsified and destroyed documents, and told workers to refuse to talk to investigators without a corporate representative.

Beulah died August 7<sup>th</sup>, 2016.

One manager of the facility was sentenced to 3 years probation. Another got 60 days in jail/work release and 3 years probation. The companies and individuals are being sued for negligence and wrongful death. The individuals are also being sued for violating the state's vulnerable persons act. Nursing homes are exempt from complying with the vulnerable persons act.

The state started an investigation of Southtowne starting in the summer of 2016. After the investigation started, three more patients suffering from scabies died.

For the twelve months covering July 15, 2016 through July 14, 2017, Southtowne was fined \$39,900 by the state. The legislature recently increased the fines but the maximum fine the company could pay is still capped by statute.

In this egregious case, no jury is likely to hear Beulah Schmidt's story or to decide whether the parties owe anything for the way Beulah Schmidt spent the last ten months of her life or for the family's loss of their loved one. Currently, the case is set to be resolved in the shadows by arbitration. The facts of the care provided at Southtowne as revealed in a trial will be kept from public view. Jury trials provide justice for the parties but also educate the public and serve as the community's conscience for what we will and will not abide.

This case is egregious but it does not stand alone. Our members report that more and more families come to them seeking justice for their loved ones. Our members worry the most about patients who have trouble communicating or who have no family members who advocate for them.

The legislature has enacted staffing ratios, training requirements, increased fines, and funded inspectors. DHS has been realigned and re-imagined several times in the last 20 years. This bill is another important step down that route. These corporations are largely publicly funded through Medicaid and Medicare and operate for a profit. We can hold the bad actors in this field truly accountable by trusting juries to find fair outcomes, by providing families access to the information they need to understand what is happening to their loved one, by giving DHS more tools to protect vulnerable Oregonians, and by giving front-line workers the training wages and benefits they need to provide quality care and to stay in very difficult, emotionally challenging jobs. These workers also need to be free from coercion so they do not have to risk their livelihood to fight for quality care.

**We urge you to vote for HB 2600.** But collectively we should not pat ourselves on the back, because the job is not done.